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STATE OF NEW YORK

Third Annual Report
of
The Chief Administrator of the Courts

1981

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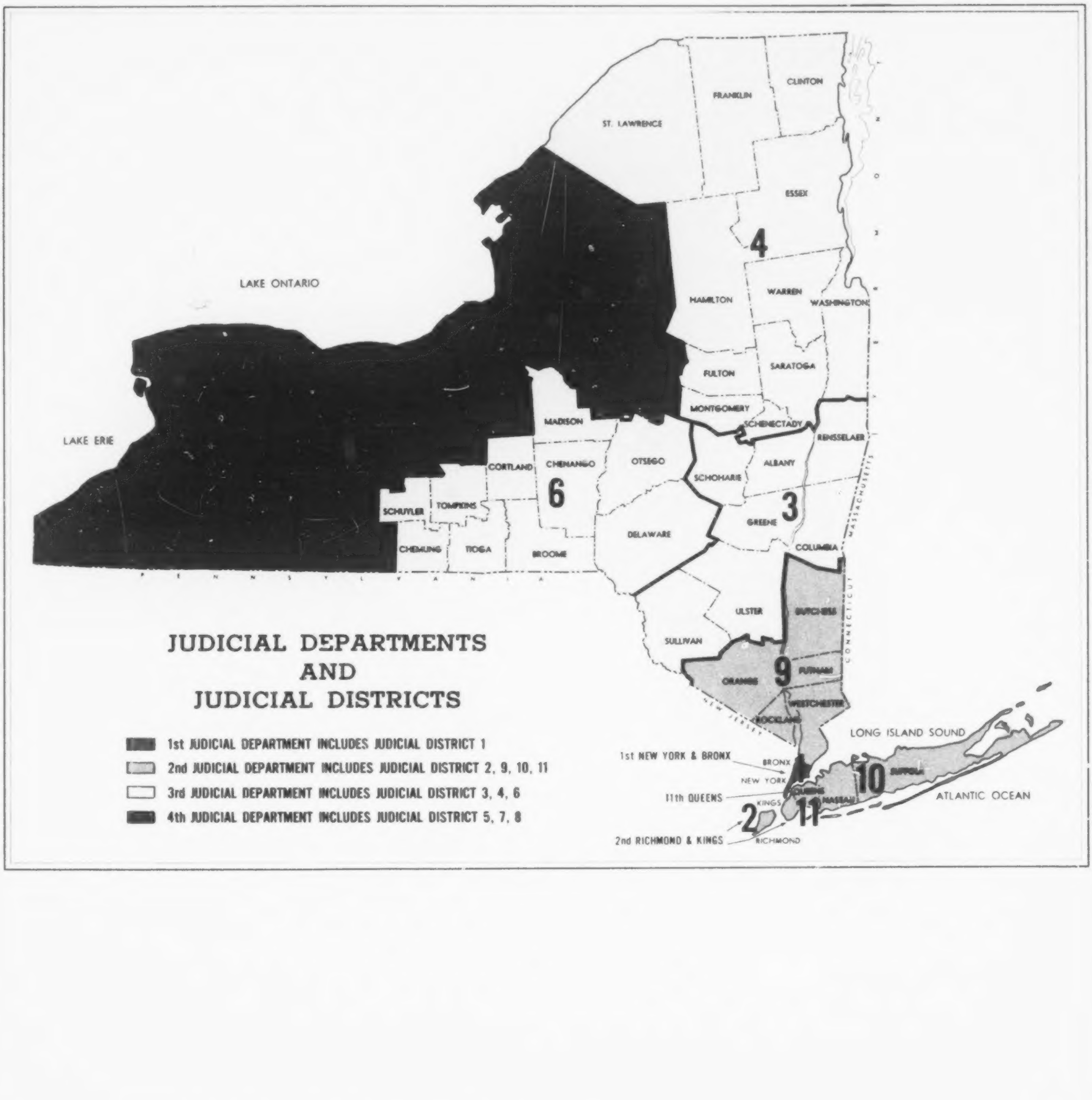
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**JUDICIAL DEPARTMENTS
AND
JUDICIAL DISTRICTS**

- ■ 1st JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 1
- ▨ 2nd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 2, 9, 10, 11
- ☐ 3rd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 3, 4, 6
- ■ 4th JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 5, 7, 8

Legislative Document (1981) No. 90

STATE OF NEW YORK

Report
of
The Chief Administrator of the Courts

For the Calendar Year
January 1, 1980 — December 31, 1980

Court of Appeals

Lawrence H. Cooke, *Chief Judge*

Matthew J. Jasen
Domenick L. Gabrielli
Hugh R. Jones
Sol Wachtler
Jacob D. Fuchsberg
Bernard S. Meyer

Chief Administrative Judge of the Courts

Herbert B. Evans

Administrative Board of the Courts

Lawrence H. Cooke, *Chairman*

Francis T. Murphy, Jr.
Milton Mollen
A. Franklin Mahoney
Michael F. Dillon

The Judicial Conference

Donald J. Sullivan
John C. Marbach
Frederick B. Bryant
J. Robert Lynch
William J. Regan
George W. Marthen
Harold E. Koreman
Daniel J. Donahoe
Archie A. Gorfinkel
David Levy
Angelo Mauceri
Joseph F. Falco
Duncan S. MacAffer
John F. Keenan
I. Leo Glasser
James S. Carter
Patrick J. Berrigan

Letter of Transmittal

To:

THE HONORABLE HUGH L. CAREY, Governor of the State of New York,
and
The Legislature of the State of New York:

Pursuant to Section 212(j) of the Judiciary Law, I submit this annual report on the activities and state of the unified court system in 1980.

Herbert B. Evans
*Chief Administrative Judge
of the Courts*

March 15, 1981

COURT OF APPEALS

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Domenick L. Gabrielli
Hugh R. Jones

Sol Wachtler
Jacob D. Fuchsberg
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ADMINISTRATIVE BOARD OF THE COURTS

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Francis T. Murphy, Jr.
Milton Mollen

A. Franklin Mahoney
Michael F. Dillon

THE JUDICIAL CONFERENCE

Donald J. Sullivan
John C. Marbach
John H. Pennock
J. Robert Lynch
Bertram R. Gelfand
Alexander Vitale
Harold E. Koreman
Daniel J. Donahoe

Claudius Matthews
Charles H. Cohen
Angelo Mauceri
Joseph F. Falco
Duncan S. MacAffer
John F. Keenan
I. Leo Glasser
James S. Carter

Patrick J. Berrigan

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When this report is of no further value to the holder, please return it to the Office of Court Administration, 270 Broadway, New York, N.Y. 10007, so that copies will be available for replacement in our sets and for distribution to those who may request them in the future.

Preface

This is the Third Annual Report of the Chief Administrator of the Courts. It is submitted pursuant to section 212(j) of the Judiciary Law and covers the period from January 1, 1980 through December 31, 1980.

This report is the third in a series that succeeded the annual reports of the Administrative Board of the Judicial Conference, the Judicial Conference, and the Office of Court Administration. The latter, in turn, had succeeded the annual reports of the Judicial Council.

The reports consists of six chapters. Chapter 1 describes the objectives, the structure, the administration and the financing of the courts in New York State. Chapter 2 discusses the progress of the courts in complying with the standards and goals for the timely disposition of cases adopted by the Judiciary on July 3, 1975 (see Chapter 2 of the 21st Annual Report of the Administrative Board). Chapter 3 presents statistics on court operations in calendar year 1980.

Chapter 4 discusses six special programs: (a) the Mental Health Information Service, (b) the central index for post-conviction applications, (c) retainer and closing statements, (d) compulsory arbitration programs, (e) statements of appointment and of fees or commissions under section 35-a of the Judiciary Law, and (f) grievance committee activities.

Chapter 5 reports on education and training programs conducted, coordinated or assisted by the Office of Court Administration in 1980.

Chapter 6 summarizes (a) the legislation sponsored by the Office of Court Administration at the 1980 session of the Legislature and (b) rules revised or added during that year. It includes the *Report of the Judicial Conference and the Chief Administrator of the Courts to the 1981 Legislature in Relation to the Civil Practice Law and Rules*, the *Tenth Annual Report to the Judicial Conference and the Chief Administrator of the Courts by the Advisory Committee on the Criminal Law and Procedure*, and the *1980 Report of the Family Court Advisory and Rules Committee*.

The Appendices consist of two reports: 1) *Interim Report to the Chief Judge of the New York State Court of Appeals by the Media Advisory Committee*; and 2) *Report of the Ad Hoc Committee on Medical Malpractice Panels to the Chief Administrative Judge of the State of New York on the Operation of Medical Malpractice Panels*.

All numbered statistical tables appear at the end of the chapter in which they are cited.

Acknowledgment

The Chief Administrator of the Courts gratefully acknowledges the assistance and cooperation extended to him and to the Office of Court Administration during the past year by the Governor and his staff, members of the Legislature, members of the Judiciary, court personnel, bar associations, and individual lawyers and laymen.

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Chapter 1

The Courts

The *Judiciary* is one of the three branches of New York State Government. The powers and the structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI was approved by the voters in the 1961 election and became operative September 1, 1962, effecting the first court reorganization in New York since 1894. Article VI provides for a "unified court system for the state" and specifies the organization and the jurisdiction of the courts in the state. It also establishes the method of selection and removal of judges and justices and the responsibilities for administrative supervision of the courts.

The objectives of the Judiciary are to (1) provide a forum for the peaceful, fair and prompt resolution of (a) civil claims and family disputes, (b) criminal charges and charges of juvenile delinquency and (c) disputes between citizens and their government and challenges to governmental actions; (2) determine the legality of wills, adoptions, uncontested divorces and other undisputed matters submitted to the courts for review and approval; (3) provide legal protection for children, mentally ill persons and others entitled by law to the special protection of the court; (4) regulate the admission of lawyers to the Bar and their conduct and discipline, and (5) review administrative determinations in judicial disciplinary proceedings to admonish, censure, remove or retire judges and justices.

1.1 Court Structure

In New York State the courts of original jurisdiction, or trial courts, hear a case in the first instance, and the appellate courts hear appeals from the decisions of other tribunals.

The *appellate courts* are the Court of Appeals, the Appellate Divisions and the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts. The *trial courts* of superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogates' Courts and, outside New York City, the County Courts. The trial courts of lesser jurisdiction are the Criminal Court and the Civil Court of the City of New York and, outside New York City, City Courts, District Courts and Town and Village Justice Courts.

The appellate structure of these courts is shown in Figures 1-a and 1-b.

The *Court of Appeals* is the highest court of the state. It consists of the Chief Judge and six Associate Judges. They are appointed by the Governor for 14-year terms, with the advice and consent of the Senate, from among persons found to be well-qualified by the Commission on Judicial Nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the review of questions of law, except in a criminal case in which the judgment is of death or a case in which the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from the court of original jurisdiction to the Court of Appeals from a final judgment or order in an action or proceeding in which the only question is the constitutionality of a state or federal statute. In other matters, the Constitution provides that certain types of cases can be taken to the Court of Appeals as a matter of right, while in still other cases an appeal to the Court of Appeals may be taken only with the leave of a justice of the Appellate Division or a judge of the Court of Appeals or upon the certification of the Appellate Division or the Court of Appeals.

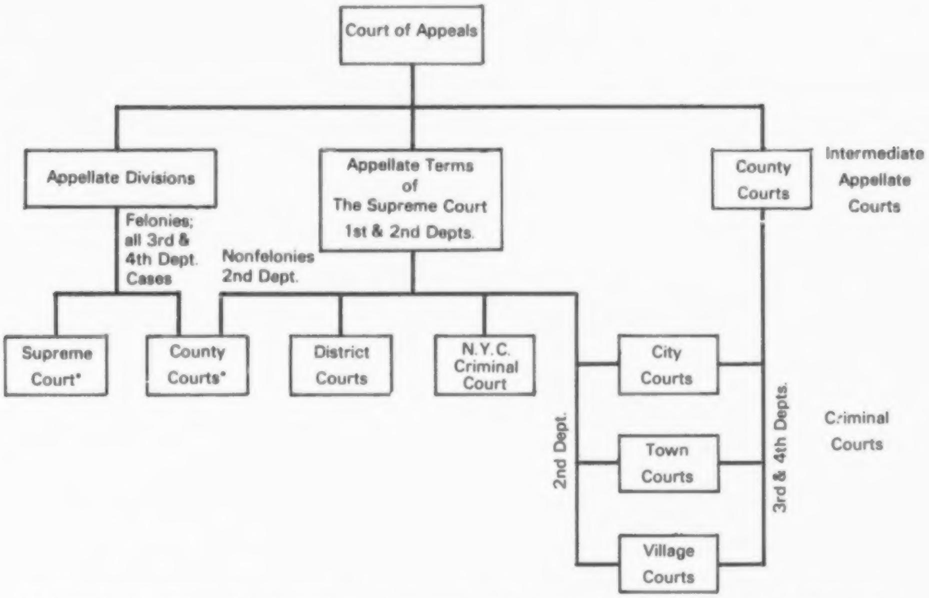
The Court also hears appeals from determinations of the State Commission on Judicial Conduct.

The *Appellate Divisions of the Supreme Court* are established in each of the state's four judicial departments (see the map at the beginning of this chapter). Their responsibilities include:

- Resolving appeals from judgments or orders of the courts of original jurisdiction in civil and criminal cases and reviewing civil appeals taken from the Appellate Terms.
- Conducting proceedings to admit, suspend, or disbar lawyers.

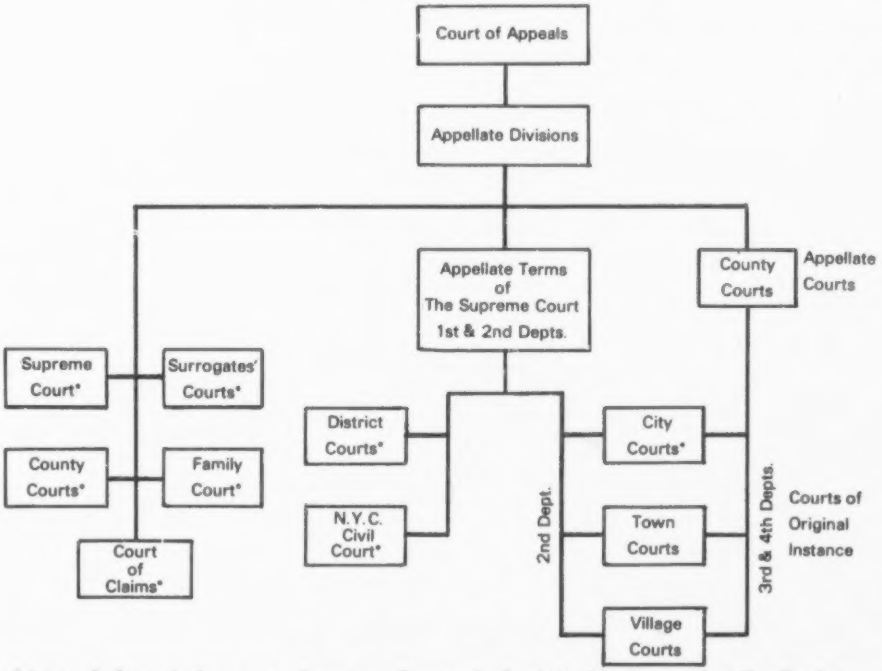
Each Appellate Division has jurisdiction over appeals from judgments and from final and some intermediate orders rendered in county-level courts and original jurisdiction over selected proceedings. Where established by the Appellate Division, *Appellate Terms* exercise jurisdiction over civil and criminal appeals from various local courts and certain criminal appeals from the County Courts in the Second Judicial Department.

Figure 1-a
NEW YORK STATE JUDICIAL SYSTEM
Criminal Appeals Structure


Court of Appeals
Appellate Divisions
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Intermediate Appellate Courts
Felonies; all 3rd & 4th Dept. Cases
Nonfelonies 2nd Dept.
Supreme Court*
County Courts*
District Courts
N.Y.C. Criminal Court
City Courts
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Criminal Courts

*Appeals involving death sentences must be taken directly to the Court of Appeals.

Figure 1-b
NEW YORK STATE JUDICIAL SYSTEM
Civil Appeals Structure


Court of Appeals
Appellate Divisions
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Appellate Courts
Supreme Court*
Surrogates' Courts*
County Courts*
Family Court*
Court of Claims*
District Courts*
N.Y.C. Civil Court*
City Courts*
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Courts of Original Instance

*Appeals from judgments of courts of record of original instance that finally determine actions where the only question involved is the validity of a statutory provision under the New York State or United State Constitution may be taken directly to the Court of Appeals. Only some of the City Courts are courts of record.

As prescribed by Section 4, Article VI of the Constitution, justices of the Supreme Court are designated to the Appellate Divisions by the Governor. The Governor designates the Presiding Justice of each Appellate Division, who serves for the length of his or her term of office as a justice of the Supreme Court. Associate justices are designated for five-year terms or for the remainder of their terms of office, whichever period is shorter.

The *Supreme Court* has unlimited, original jurisdiction, but it generally hears cases outside the jurisdiction of other courts, such as:

- Civil matters beyond the financial limits of the lower courts' jurisdiction;
- Divorce, separation, and annulment proceedings;
- Equity suits, such as mortgage foreclosures and injunctions; and
- Criminal prosecutions of felonies and indictable misdemeanors in New York City.

Supreme Court justices are elected by judicial district for 14-year terms.

The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecution of offenses committed within the county, although in practice most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases generally involving amounts up to $10,000.

County Court judges are elected in each county for terms of 10 years.

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills and the administration of estates, and adoptions.

Surrogates are elected for terms of 10 years in each county outside New York City and for terms of 14 years in each county in New York City.

The *Family Court* is established in each county and the City of New York to hear matters involving children and families. The principal types of cases it hears include:

- Juvenile delinquency;
- Child protection;
- Persons in need of supervision;
- Review and approval of foster-care placements;
- Paternity determinations;
- Family offenses;
- Adoptions (concurrent jurisdiction with Surrogate's Court); and
- Support of dependent relatives.

Family Court judges are elected for 10-year terms in each county outside New York City and are appointed by the Mayor for 10-year terms in New York City.

The *New York City Civil Court* tries civil cases involving amounts up to $10,000. It includes a Small Claims Part for informal disposition of matters not exceeding $1,000* and a Housing Part for housing-code violations. New York City Civil Court judges are elected for 10-year terms. In addition to Civil Court judges, special Housing judges are appointed for 5-year terms to sit in Housing Parts. They are not, however, constitutional judges. The appointments are made by the Administrative Judge of the Civil Court.

The *New York City Criminal Court* conducts trials of misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for all criminal offenses. New York City Criminal Court judges are appointed by the Mayor for 10-year terms.

There are four kinds of courts of lesser jurisdiction outside New York City: *District, City, Town* and *Village Courts*. These four courts handle minor civil and criminal matters. The methods of selection and the terms of office of judges of these courts vary throughout the state.

The *Court of Claims* is a special trial court that hears and determines claims against the State of New York. Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, for nine-year terms.

Table 1 shows the authorized number of judges in the New York State judicial system.

1.2 Court Administration

Section 28 of Article VI of the State Constitution, as amended November 8, 1977, effective April 1, 1978, provides that the authority for administrative supervision of the court system is vested in the Chief Judge of the Court of Appeals. The Chief Judge appoints a Chief Administrator of the Courts (who is called the Chief Administrative Judge of the Courts if the appointee is a judge) with the advice and consent of the Administrative Board of the Courts. The Administrative Board consists of the Chief Judge as chairman and the Presiding Justices of the four Appellate Divisions of the Supreme Court.

The Chief Administrator, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for directing the

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*As of March 4, 1981, maximum is $1,500.

Office of Court Administration, which he establishes.

The Chief Judge establishes statewide administrative standards and policies after consultation with the Administrative Board and promulgates them after approval by the Court of Appeals.

Chapter 156 of the Laws of 1978 implements these constitutional provisions. Sections 211-213 of Article 7-A of the Judiciary Law set forth the administrative functions of the Chief Judge, the Chief Administrator, and the Administrative Board. (See Figures 2 and 3.)

1.2.1 Administrative Actions of the Chief Judge

The principal administrative actions of Lawrence H. Cooke, the Chief Judge of the State of New York, in 1980 were the following:

The Plan to Reduce Court Congestion: The plan, which the Chief Judge announced on Oct. 31, 1979, was designed to address a backlog of more than 60,000 civil cases pending in the Supreme Court and the attendant delays in adjudication. It provided for the transfer of 242 judges throughout the state in order to create 396 additional four-week Supreme Court trial terms in the 11 largest counties in which civil case delays were most acute.* Results of this special effort in 1980 were impressive. Pending caseloads of civil actions in the Supreme Court (for which certificates of readiness for trial had been filed) decreased by 13,679 cases, from 61,996 to 48,317, or 22.1 percent statewide.

In the 11 counties that were the target of the plan, the number of pending civil actions in the Supreme Court decreased by 12, 498 cases, or 24 percent, while in the rest of the state (the 51 counties from which judges were transferred) the number of pending civil actions in the Supreme Court decreased by 1,181 cases, or 12 percent. Further, the backlog of old civil cases pending more than 60 weeks was reduced statewide by 8,862 cases, or 42.5 percent; by 8,321 cases, or 43 percent, in the 11 target counties; and by 541 cases, or 36.5 percent, in the rest of the State.

Although the main objective of the plan was to reduce the backlog of civil actions, felony proceedings were held to a six-month standard for disposition, and the transferred judges were used to try indictments when regularly assigned judges were unavailable.

In addition to the transfer of hundreds of judges, the special effort to eliminate severe civil case backlogs provided for increased bench time for judges and for expanding arbitration of civil cases involving claims of $6,000 or less. Arbitration, or alternative dispute resolution by panels of lawyers, had previously proved successful in Bronx, Broome, Monroe and Schenectady counties, where it is being continued. Studies of the programs there have shown that only six percent of litigants have requested a trial because of dissatisfaction with the arbitrators' award.

Arbitration programs are now operating in the following 22 additional counties: Albany, Cayuga, Dutchess, Kings, Livingston, Nassau, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Queens, Rensselaer, Rockland, Seneca, Steuben, Suffolk, Ulster, Wayne, Westchester, and Yates. In 1980, the number of cases disposed of by arbitration was 10,409; and demands for a trial *de novo* were made in only 6.1 percent of the arbitrated cases. Since all 22 new arbitration programs did not operate for a full year in 1980, the number of dispositions by arbitration is expected to be significantly higher in 1981.

In recognition of the need for a continuing effort to address court delay, the Chief Judge has formulated a plan for 1981 which provides for the creation of 352 additional Supreme Court trial terms. This plan will involve the interdistrict assignment of 226 Supreme and County-level judges, creating 21 additional parts of court in New York City, 6 in Erie County and 5 in Suffolk County. Judicial vacations in 1981 will continue at the present 20-day level. Further expansion of the arbitration program also will be explored.

The problem of reducing delay in criminal proceedings will receive increased attention in 1981. The 1981 plan for judicial interdistrict assignments is sufficiently flexible to permit the assignment of judges to both civil or criminal proceedings, as may be necessary to meet the Judiciary's standards and goals.

State Court Facilities Task Force: On December 8, 1980, the Chief Judge announced the formation of a 19-member State Court Facilities Task Force and asked it to conduct a study of the physical court facilities of the Unified Court System, to recommend measures needed to permanently improve them, and to suggest such remedial steps as may be advisable in the near future. He also asked the Task Force to consider the current fiscal constraints on state and local governments in the development of its recommendations, including any financial proposals.

The Chief Judge said that his own observations on visits to a number of courts around the state and reports from judges, bar associations, court staff and members of the public had pinpointed eight physical plant problems, especially in metropolitan counties: (1) inadequate cleaning and maintenance services; (2) a lack of properly planned courtrooms and ancillary facilities, such as waiting rooms, juvenile and adult waiting rooms in Family Court, attorney-client conference rooms, jury deliberation rooms, and prisoner-holding facilities; (3) poor acoustics and physical conditions in courtrooms used by large numbers of people, such as small claims, housing, arraignment and traffic court courtrooms; (4) a lack of judges' chambers; (5) a lack of space in clerks' offices; (6) inadequate juror assembly rooms; (7) inadequate building security; and (8) a lack of public information services and directional signs, including bilingual services and signs in some cities where necessary.

These problems have arisen, Chief Judge Cooke

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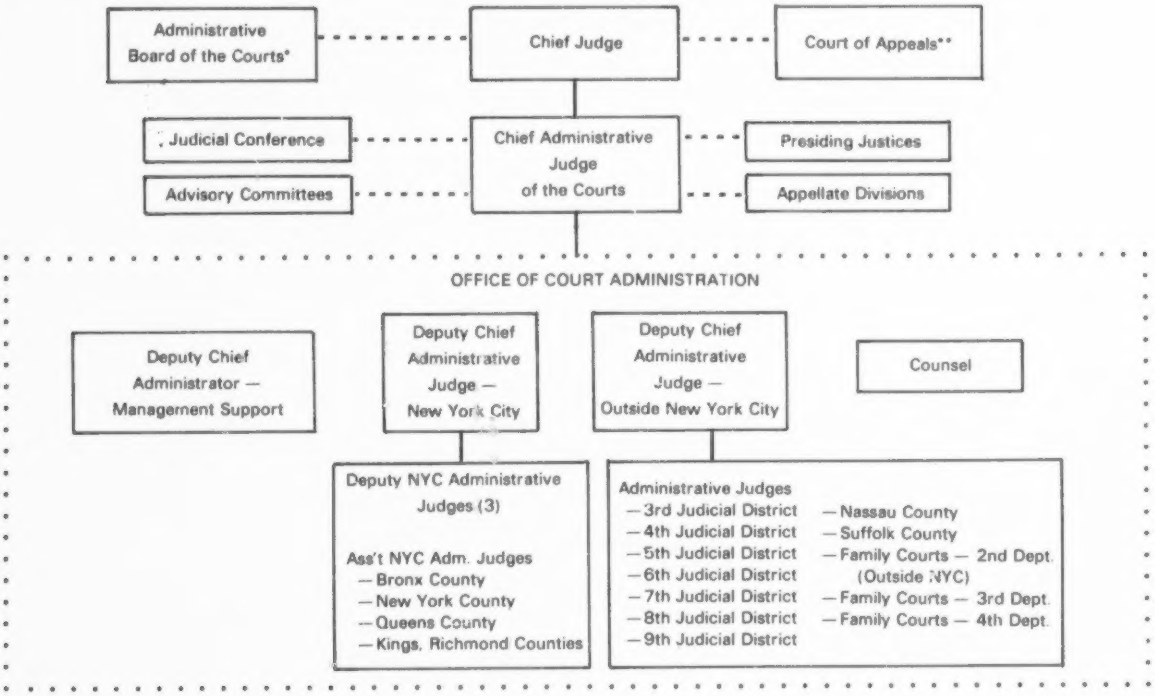
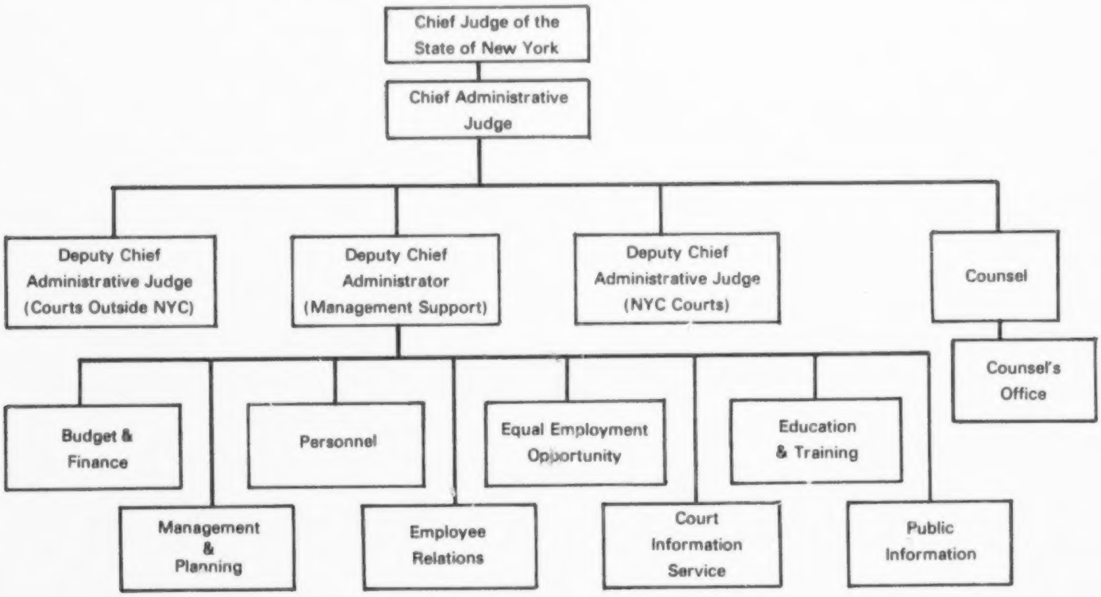
*The 11 target counties are: New York, Bronx, Kings, Queens, Richmond, Nassau, Suffolk, Westchester, Onondaga, Monroe, Erie.

Figure 2
NEW YORK STATE JUDICIAL SYSTEM
Administrative Structure


Administrative Board of the Courts*
Chief Judge
Court of Appeals**
Judicial Conference
Advisory Committees
Chief Administrative Judge of the Courts
Presiding Justices
Appellate Divisions
OFFICE OF COURT ADMINISTRATION
Deputy Chief Administrator — Management Support
Deputy Chief Administrative Judge — New York City
Deputy Chief Administrative Judge — Outside New York City
Counsel
Deputy NYC Administrative Judges (3)
Ass't NYC Adm. Judges
—Bronx County
—New York County
—Queens County
—Kings, Richmond Counties
Administrative Judges
—3rd Judicial District
—4th Judicial District
—5th Judicial District
—6th Judicial District
—7th Judicial District
—8th Judicial District
—9th Judicial District
—Nassau County
—Suffolk County
—Family Courts — 2nd Dept. (Outside NYC)
—Family Courts — 3rd Dept.
—Family Courts — 4th Dept.

*Generally a consultative body.
**After consultation with the Administrative Board, the Chief Judge submits standards and administrative policies to Court of Appeals for approval.

Figure 3
ORGANIZATION CHART
Office of Court Administration


Chief Judge of the State of New York
Chief Administrative Judge
Deputy Chief Administrative Judge (Courts Outside NYC)
Deputy Chief Administrator (Management Support)
Deputy Chief Administrative Judge (NYC Courts)
Counsel
Counsel's Office
Budget & Finance
Personnel
Equal Employment Opportunity
Education & Training
Management & Planning
Employee Relations
Court Information Service
Public Information

explained, because of a number of developments, such as increases in workload and in the number of judges and support staff over the years without corresponding growth in physical plants. Also, over a long period of time, in some locations, more and more space in courthouses owned and operated by counties and cities has been gradually assigned to local executive branch agencies — such as district attorneys offices, probation, corrections, and noncourt-related agencies — as their responsibilities and needs for space increased, leaving less room for court operations. In addition, as localities started to experience fiscal difficulties and as the costs of upkeep increased, funds available for court facilities decreased proportionately and physical conditions suffered.

Named by the Chief Judge to head the task force was Richard F. Coyne, Esq., vice-president of the Economic Development Council of New York City, Inc., a private, nonprofit organization of leading businessmen that has conducted numerous useful studies of various courts in the state. Also named to serve with Mr. Coyne were the following judges, lawyers, and civic leaders: Warner M. Bouck, Esq., of Bouck, Holloway & Kiernan, Albany; Edward J. Cleary, Secretary-Treasurer, New York State-New York City Building and Construction Trades Council, AFL-CIO, New York City; John V. Connorton, Jr., Esq., of Hawkins, Delafield & Wood, New York City; Hon. Geraldine T. Eiber, Justice of the State Supreme Court, Kew Gardens; Hon. Herbert B. Evans, State Chief Administrative Judge of the Courts, New York City; Joseph J. Fater, Managing Director, Building Contractors Association, Inc., New York City; Howard T. Ford, Chairman of the Board and Chief Executive Officer, Erie Savings Bank, Buffalo; Alexander D. Forger, Esq., of Milbank, Tweed, Hadley & McCloy, President of the New York State Bar Association, New York City; Hon. Stanley H. Fuld, Special Counsel to Kaye, Scholer, Fierman, Hays & Handler and a former Chief Judge of the Court of Appeals, New York City; Mendes Hershman, Esq., of Rosenman, Colin, Freund, Lewis & Cohen, New York City; Alfred S. Julien, Esq., of Julien, Schlesinger & Finz, New York City; Chandler Y. Keller, Esq., of Night, Keller & Blechman, Binghamton; Carl A. Morse, Chairman of the Board, Morse/Diesel, Inc., New York City; Hon. William R. Roy, Administrative Judge, Fifth Judicial District, Syracuse; Fern Schair, Esq., Executive Director, Fund for Modern Courts, Inc., New York City; Hon. Thomas M. Stark, Supervising Judge, Superior Criminal Courts of Suffolk County, Riverhead; Hon. Michael A. Telesca, Surrogate, Monroe County, Rochester; and Samuel Yasgur, Esq., County Attorney, Westchester County, White Plains.

Prakash Yerawadekar, an architect who is a Deputy Director of Management and Planning in the State Office of Court Administration, and Frederick Miller, Esq., its Legislative Counsel, are serving the Task Force as Technical Director and Counsel, respectively.

State courts, including all county, city, and district courts, now occupy about 8,000,000 square feet in 250 separate buildings owned and operated by 119 local governments and the state. That space is equal in area to that of both 110-story towers of the World Trade Center in downtown New York City.

Under the Unified Court Budget Act of 1976 (Chapter 966, Laws of 1976), which went into effect on April 1, 1977, the state assumed, over a four-year period, all costs of operating the courts except the costs of maintaining, operating, repairing, and constructing court facilities, which remain local responsibilities.

In 1980, the Chief Judge also: (1) added a new section 20.21 to the Rules of the Chief Judge (22 NYCRR 20.21), effective Nov. 20, 1980, to provide that the transaction of official business by judges, justices and nonjudicial personnel of the Unified Court System, when permitted to be held in a nonpublic facility, shall not knowingly be conducted in a facility which by practice, by law or other regulation restricts membership or admission on the basis of sex, race, color, ethnic origin, religion or creed. The rule also provides that reimbursement from state funds shall be denied for knowing violation of the rule and defines "transaction of official business," for purposes of the rule, to be sessions, conferences and seminars conducted by or under the auspices of the Unified Court System; (2) adopted a new Part 35 of the Rules of the Chief Judge (22 NYCRR Part 35), governing the videotaping of conditional examinations of witnesses in criminal cases, effective October 14, 1980; (3) repealed former Part 28 of the Rules of the Chief Judge, governing compulsory arbitration, and substituted therefor a new Part 28 (22 NYCRR Part 28), entitled "Rules Governing Alternative Dispute Resolution by Arbitration." The provisions of the new Part 28 became effective in 26 counties through a series of Administrative Orders of the Chief Administrator in 1980. (The provisions of former Part 28, revised and updated by the Chief Judge, remained temporarily in effect in the four experimental counties of Bronx, Broome, Monroe and Schenectady until superseded by the new rules in accordance with Administrative Orders issued by the Chief Administrator during 1980); and (4) amended, effective March 18, 1980, section 25.26 of the Rules of the Chief Judge in respect to provisional appointments of nonjudicial personnel of the Unified Court System, updating the provisions of that section and providing that provisional appointees may be continued for up to one year after the establishment of the first eligible list for a title established pursuant to the classification of positions mandated by section 39 of the Judiciary Law.

1.2.2 Administrative Actions of the Chief Administrative Judge

The principal administrative actions of Chief Administrative Judge Herbert B. Evans in 1980, taken on behalf of the Chief Judge, were the following: (1) extended the program of alternative dispute resolution by arbitration, authorized by Rule 3405 of the Civil Practice Law and Rules and 22 NYCRR Part 28, from the original four experimental counties (where he substituted the provisions of new Part 28 for the provisions of former Part 28) to

22 additional counties (for the names of the counties involved, see the discussion above under "The Plan to Reduce Court Congestion"); (2) amended section 33.3(a)(7) of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (22 NYCRR 33.3(a)(7)) and added a new paragraph (8) (22 NYCRR 33.3(a)(8), to be effective January 1, 1981, under which the Chief Judge authorized appellate courts to permit, on certain conditions and in their discretion, the electronic photographic recording of proceedings of such courts; (3) amended section 33.3(a) of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct to add a new paragraph 9 (22 NYCRR 33.3(a)(9), to become effective 60 days after the effective date of any amendment or repeal of section 52 of the Civil Rights Law which will remove the bar of that section as it pertains to photographic coverage of court proceedings. Under the amendment the Chief Judge or his designee may authorize an experimental program for a limited period in which trial judges, in their discretion, may permit, subject to certain conditions and only in civil actions, the audiovisual coverage of proceedings, including trials; (4) ratified an amendment by the Appellate Division, Third Department, after consultation with the Appellate Division and the Administrative Board, repealing 22 NYCRR 839.5, a rule relating to the practice of law by part-time judges within the Third Department, effective Oct. 10, 1980; (5) ratified the repeal by the Appellate Division, Third Department, of subdivision (e) of section 1500.2 (22 NYCRR 1500.2(e)), relating to the calendar control of criminal actions in the County Court of Schenectady, effective Oct. 10, 1980; (6) amended subdivision (a) of section 1.2 of Part I of his Rules (22 NYCRR 1.2(a)), effective May 19, 1980, to provide that each judge or justice on assignment to New York City as part of the Chief Judge's plan to reduce delay in the courts shall be reimbursed in amounts up to specified maximum rates to the extent that the total allowances for meals, lodging and incidentals do not exceed $55 per day. The rates included $4 for breakfast, $5 for lunch, $16 for dinner and $25 for all meals. (For 1981, the maximum was increased by the Legislature to $75 per day for judges transferred to localities with a population of 700,000 or more.); (7) amended subdivision (b) of section 3420.7 of the calendar and practice rules for the City Court of Buffalo (22 NYCRR 3420.7(b)), effective Dec. 31, 1980, to delete the provision requiring that the public defender be assigned to represent any criminal defendant who has not obtained counsel at the end of a second period of adjournment; (8) ratified the repeal by the Appellate Division, Fourth Department, of 22 NYCRR 1590.5(e), a provision of the Uniform Calendar and Practice Rules for County Courts in that department; and (9) prescribed a number of new official forms for use in proceedings in the Family Court, revising Appendix C-1 of 22 NYCRR accordingly.

1.2.3 Accomplishments of Management-Support Units of OCA

On October 31, 1979, the day he announced the plan to reduce court congestion, the Chief Judge also announced that he had asked the National Center for State Courts to conduct a study of the administrative structure of the Unified Court System. The Center submitted a report on its study to the Chief Judge on June 9, 1980. One of the principal recommendations was that the position of Assistant Chief Administrator be restructured and renamed Deputy Chief Administrator for Management Support and elevated to the level of the Deputy Chief Administrative Judges.

That recommendation was implemented on December 10, 1980, when the Chief Judge and the Chief Administrative Judge jointly announced the appointment of S. Michael Nadel, Esq., then the Director of Personnel for the City of New York, to the newly created position, in which he is responsible primarily for supervising the units, discussed below, that provide management support to the court system, including direct support to the trial courts.

The principal accomplishments of the management-support units of the Office of Court Administration in 1980 were the following:

The *Office of Budget and Finance* continued the efforts made over the past several years to develop an improved budget preparation process and an expanded fiscal management capability. In response to increased scrutiny of the Judiciary budget by the Legislature, the Executive, and the public, the budget forms and instructions were revised to assemble more comprehensive information, particularly in the area of nonpersonal service. In addition, the implementation of a program budget format for the courts of original jurisdiction was refined, a step facilitated by the increased use of an automated budget process.

Major projects in the area of juror administration and management were continued. Accomplishments included the development of guidelines for jury utilization and, working with the Court Information Service, the implementation of an automated juror management system.

The office continued to serve as the liaison between the Judiciary and the Legislature and the Executive Branch on fiscal policies and procedures. A major facet of this responsibility was an expanded role with regard to the audit function now being carried out by the Comptroller's Office.

The *Management and Planning Office* concentrated on projects that reduced delay in the courts. Systems were developed and implemented that enabled the trial courts and administrative judges to monitor the progress being achieved under the plan to alleviate court congestion. These systems allow monitoring of progress on a weekly basis. In addition, the office analyzed the data at the end of each term and provided reports to the administrative judges.

The installation of the program of alternative dispute resolution through arbitration was successfully completed in 22 counties, bringing to a total of 26 the number of counties in which the program is now operating. A statewide survey is being conducted to identify all other such programs that have been developed in individual communities for analysis and possible expansion to other areas of the state.

The office continued to develop statewide management systems. A model security contract was developed and approved that will improve, where necessary, the provision of security in the courtrooms throughout the state. Staff work was completed on a procedures manual for the Supreme and County courts. It will be introduced for use early in 1981. Family, Surrogate, City and District Court manuals are being developed. All aspects of juror utilization were studied, and a master plan was developed to implement improvements in juror services. New statutory requirements for commitment orders and new criminal record-sealing requirements were analyzed, and forms and procedures were developed.

In the area of court facilities planning, surveys were completed in the Third and Eighth Judicial Districts, and many facility technical assistance projects were conceived and undertaken.

The office studied the operations in six individual courts at each court's request. The recommendations enabled the courts to streamline procedures, thereby reducing backlogs in the processing of case-related paperwork.

The *Personnel Office* initiated projects on disciplinary procedures, recruitment, attendance management, a personnel manual, selection interviewing, and performance evaluation. These, along with several other projects which were begun in 1979, will greatly enhance the human resource capabilities of the Unified Court System.

The office continued an extensive testing program to provide eligible lists for all competitive titles on a timely basis. Thus far it has involved the conduct of 37 promotional and open competitive examinations for 24 titles. These examinations have required the timely review by staff of individual qualifications of 49,260 applicants to ensure that deadlines for scheduling and notification of candidates are met. This review has resulted in 45,298 candidates being scheduled to compete in examinations for positions within the Unified Court System. Examinations for remaining competitive titles will occur during the next 12 months and will involve an additional 100,000 candidates.

The office continued to conduct a highly technical job analysis program. To date, it has provided detailed studies of over 36 titles and made possible the development of job-related and legally defensible examinations, the development of the Probationary Performance Appraisal Program, revisions of title standards, and conformance to EEO guidelines. Eventually every major title in the court system will be individually and thoroughly analyzed.

The office was involved in recommending and implementing policies and procedures for the collection of fees charged to examination applicants with a view toward generating up to $500,000 in revenues over the next year. It also developed job-related physical ability tests and medical standards for the selection of court officer and senior court officer positions that will meet professional and legal guidelines and are related directly to the physically demanding aspects of the job. This work will provide a nationwide model for the selection of security positions.

In an effort to meet the continuing staffing needs of the court system, the Personnel Office has been working with the New York State Department of Labor to develop a program of continuous recruitment and testing for hard-to-recruit titles. It will result in the hiring of more highly talented people in a shorter time period than usual in a civil service system. The office also implemented legislation which provided for the granting of permanent status to "provisional" employees outside the City of New York based on the following criteria: (1) the employee has been employed in or performed the duties of such (provisional) position for one year before July 1, 1980, or (2) the employee has served continuously in the Unified Court System for one year before July 1, 1980, and has been provisionally promoted during such time to the position held as of July 1, 1980.

In addition, the office undertook a review of positions in earmarked competitive titles in the Third and Fourth Departments and the Ninth and Tenth Judicial Districts. The purpose of the review was to evaluate the duties and responsibilities of each incumbent in an earmarked title and determine the appropriate title in the Classification Plan. The review has been basically completed and determinations made for about 200 positions in 21 earmarked titles. The plan had been to implement these recommendations when eligible lists were established and to fill those positions held by provisionals from the lists. Since practically all the employees in these earmarked titles were granted permanent status under the "cover-in" bill, however, no action can be taken until a position becomes vacant.

The appeals unit of the Personnel Office is responsible for the clerical processing and professional analysis of employee appeals resulting from the Classification Plan. In 1980, 2,500 appeals were made ready for consideration by requesting the appellant to submit supporting documentation. These are now being analyzed for a recommended determination to be sent to the Chief Administrative Judge. Four hundred appeals were determined in 1980, and of those some have gone for a second stage review before the Classification Review Board, consisting of three members appointed by the State Comptroller, the Chairman of the State Public Employment Relations Board and the President of the State Civil Service Commission, respectively.

The *Employee Relations Office* resolved 8 first collective bargaining agreements through March 31, 1982, and 24 second collective bargaining agreements for the period April 1, 1979 through March 31, 1982. It implemented procedures to ensure contract compliance and uniform interpretation of collective bargaining agreements.

The office helped bring about a reduction in the number of negotiating units from 42 in 1979 to 37 in 1980. It began the process of computerizing court and nonjudicial personnel records. And it took part in the development and implementation of innovative staffing guidelines to allocate scarce fiscal resources and to ensure equitable staffing patterns statewide.

The *Equal Employment Opportunity Office* took a number of steps to expand its services statewide. EEO regional offices were created and staffed in the Third and Fourth Judicial Departments. Ten statewide training sessions on test-taking techniques were conducted for minority and women candidates who applied for the court assistant civil service examination. A handicapped set-aside program for the Unified Court System, designed to recruit and hire disabled persons, was created. Four persons were placed in the initial effort.

Thirty-five individual complaints of discrimination were investigated, and several group complaints about examinations and promotional opportunities were handled. Six orientation seminars on the Unified Court System were conducted for community group leaders.

The EEO office continued to review and analyze personnel selection practices and procedures. The office recommended and enforced the establishment of interviewing teams for selection in the Second, Third and Fourth Judicial Departments. A training program for chief clerks on employee selection guidelines and interviewing techniques was created. Development of the statewide affirmative action plan began to unfold. Efforts were made to expand the network of community organizations used as recruitment sources. The EEO office newsletter, "EEON", continued to be published. Assistance was provided to the Counsel's office in the investigation of complaints filed with external enforcement agencies.

The EEO office continued to monitor test results and other selection procedures for disproportionate impact on the protected groups. Assistance and advice was provided to management staff of the Nassau County courts regarding problems affecting the minority community.

The office was successful in placing minority persons in various positions throughout the state. Some of the placements included an associate clerk in the Surrogate's Court in Suffolk County, an assistant Mental Health Information Service attorney, a senior law library clerk and an office typist in the Third Judicial Department. Two-hundred twenty-five persons were recruited and referred for positions in the Fourth Department. Six referrals were ultimately chosen to fill positions in that department.

The *Court Information Service* continued to provide the criminal courts of New York City the capabilities of the Offender Based Transaction System (OBTS). This system includes the reporting of criminal dispositions, the production of court calendars, the maintenance of case histories, the production of docket books, the sealing of records, and other related court record-keeping functions. During the year, two major software enhancements were made to the system. The first expanded and improved response time for the existing New York City criminal court users. The second provided for the extension of the OBTS system capabilities to the superior courts. Another major change was the transfer of the operation of the system to the OCA computer center in Albany. In addition, specifications were developed for software enhancements which will ultimately provide for the integration of summons processing into the OBTS system software in 1981.

A Judicial Activity Reporting System (JARS) was implemented to provide for the on-line entry and retrieval of criminal and civil court statistics. This system is supported by terminals in District Administrative Judges' offices, where data are collected and entered on a centralized basis. The system has greatly improved the timeliness and accuracy of these statistical data.

A Jury Management System has been successfully implemented in Monroe and Erie counties and has already significantly reduced the amount of manual effort formerly required to provide these counties with qualified jurors. The system is scheduled to be operational in New York County early in 1981 and will be extended to the four other counties in New York City once that installation is completed. Requests have been received from other counties outside New York City to be included in the system, and these will be handled as time permits.

The pilot Civil Supreme Court Information System is scheduled to be operational in Nassau County in January 1981. It will provide for the printing of court calendars, as well as the tracking of civil cases similar to the manner in which OBTS tracks criminal court cases. Shortly thereafter, the system will be tailored for expansion to other counties; and it is expected to be implemented in both Westchester County and Erie County in 1981.

The contributions of the Education and Training Office and of the Counsel's Office to the work of the Office of Court Administration in 1980 are described in Chapters 5 and 6, respectively.

1.3 Court Finances

For the New York State fiscal year ending March 31, 1981, the anticipated expenditures for operating all the state courts, except town and village justice courts, was $408.7 million.* Of this total, the state paid $358.7 million (88%) and user fees amounted to $50 million (12%), as shown below:

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*Includes deficiency request of $6.9 million.

(12%), as shown below:

— *State Support:*	
Balance of appropriation after receipt of fees	$358.7 million
— *User Fees:*	50.0 million
Grand Total	$408.7 million

Section 39 of the Judiciary Law provides for the funding of the Judiciary by:

- Establishing state funding of all state, county-level, district, and city courts in the first instance commencing April 1, 1977;
- Relieving local governments of funding responsibilities for state, county-level, district, and city courts including courtroom security costs, over a four-year period, commencing with a 12.5 percent reduction in the state's 1977-78 fiscal year, a 50-percent reduction in the state's 1978-79 fiscal year, and a 75-percent reduction in the state's 1979-80 fiscal year, with full assumption of such costs in fiscal year 1980-81.
- Transferring court fee revenue to the state treasury beginning April 1, 1977;
- Establishing affected court personnel as state employees beginning April 1, 1977.

For fiscal year 1980-81, the state has assumed 100-percent funding for court operations (excluding town and village justices). Fiscal responsibility for courtroom space and related utility costs remains with the localities.

In addition to appropriations made directly to the courts, the state is assuming the costs of local court security services that were not directly appropriated in court budgets. The total amounts to $4.6 million, and the Unified Court Budget Act provides that affected localities may bill the state for actual costs up to 100 percent of the amount in fiscal year 1980-81.

Table 1
NEW YORK STATE JUDICIAL SYSTEM
Authorized Number of Judges
December 31, 1980

Number of Judges	*Court*
7	Court of Appeals
24[a]	Supreme Court, Appellate Divisions
263[ab]	Supreme Court, Trial Parts
44[a]	Supreme Court — Certificated Retired Justices
17	Court of Claims
26	Court of Claims — Judges appointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program
35[c]	Surrogates' Courts — including 6 Surrogates in the City of New York
58	County Courts — County Judges outside the City of New York, in counties that have separate Surrogates and Family Court Judges
9	County Courts — County Judges who are also Surrogates
9[c]	County Courts — County Judges who are also Family Court Judges
28[c]	County Courts — County Judges who are also Surrogates and Family Court Judges
107	Family Courts — including 39 Family Court Judges in the City of New York
98	Criminal Court of the City of New York
120	Civil Court of the City of New York
49	District Courts — in Nassau and Suffolk Counties
165[d]	City Courts in the 61 Cities outside the City of New York — including Acting and Part-Time Judges
1,059	Total
2,345	Town and Village Justice Courts

[a] In addition to the 24 Supreme Court Justices permanently authorized, 9 Justices and 12 Certificated Retired Justices were temporarily designated to the Appellate Division.

[b] Does not include judges of other courts, especially the Civil and the Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year.

[c] Does not include the changes in Washington County authorized by the 1980 Session Laws, Chapter 292: Effective January 1, 1981, the offices of County (-Family) Court Judge and Surrogate are combined and the incumbents shall each for the remainder of his term, act as and discharge the duties of County Judge, Judge of the Family Court and Surrogate; effective January 1, 1982, the office of Surrogate shall be abolished and a new office of County (-Family-Surrogate's) Court Judge created. In other words, effective January 1, 1981, both the County-Family Judge and the Surrogate shall become three-hat Judges; and effective January 1, 1982, both Judges shall be County-Family-Surrogate's Court Judges.

[d] Does not include the changes in the City of Yonkers authorized by the 1980 Session Laws, Chapter 513: Effective January 1, 1982, the judicial positions of two of the four City Justices shall be abolished, and the number of City Judges increased from four to five; effective January 1, 1984, the other two City Justice judicial positions shall be abolished.

Chapter 2

Standards and Goals

On July 3, 1975, the Administrative Board of the Judicial Conference adopted standards and goals for the timely completion of fact-finding in Family Court proceedings and the timely disposition of felony indictments in Supreme Court and County Court, and of civil actions in Supreme Court. These goals were scheduled to be achieved in stages between October 1, 1975, and January 1, 1979, under the supervision of the administrative judges. (See Chapter 2 of the 21st Annual Report.)

In a forward to the standards and goals, then State Administrative Judge Richard J. Bartlet said:

> "There is intolerable delay in the disposition of cases in the unified court system, the degree of delay varying from court to court and county to county. Our goal is to reduce delay where it exists by requiring that all courts comply with these standards...
>
> "We recognize that timeliness of disposition is not the only, or indeed the primary, goal of the unified court system. The more important goal is improving the fairness of the judicial process. But delay erodes fairness so deeply that our first effort must be directed to its elimination. When court calendars are up to date, we will have done a great deal to improve the fairness of the process. We are, of course, addressing other measures which will further improve the quality of justice in the unified court system."

A summary of the progress made by the courts, during 1980, in complying with the standards and goals follows.

2.1 Family Court

The standards and goals provided that by April 1, 1979, fact-finding shall be completed within 90 days and disposition within 180 days of the commencement of a new proceeding or a proceeding involving a modification or a violation of a previous order.

The standard was to be achieved in two stages. The first stage provided that by January 1, 1979, a fact-finding hearing be completed within 90 days of the commencement of a proceeding. Stage two provided that by April 1, 1979, disposition be achieved within 180 days of the commencement of a proceeding, in addition to the provisions of stage one.

As of December 28, 1980, the intermediate standard had been complied with in more than 90 percent of the proceedings filed since October 1979 in 54 of the 63 reporting units (62 county Family Courts and a special New York City Family Court part engaged in reviewing foster-care proceedings).

In 40 counties, over 95 percent of the proceedings had met the standard. Only in Bronx County were fewer than 84 percent of the proceedings in compliance. (See Table 2.)

As of October 31, 1976, ten counties and the New York Foster Care Review unit had compliance rates which were less than 85 percent. But by December 28, 1980, only two counties had compliance rates below this level. Moreover, in New York City (which includes the First, Second, and Eleventh Judicial Districts plus New York Foster Care Review) the rate increased from 72.7 percent as of October 1976, to 85.5 percent as of December 1977, and to 87.4 percent as of December 1978. As of December 1979, there was a slight decrease (0.4 percent) to 87.0 percent. The figures for December 1980, however, showed a gain of 2.2 percent to 89.2 percent compliance.

In summer 1975, before adoption of the standards and goals, 52 percent (27,401) of all Family Court proceedings had been awaiting completion of fact-finding for more than 90 days. By August 1, 1979, that figure had decreased to 14 percent. The August 1, 1980 data showed a gain, statewide, to 21 percent.

Progress with the 180-day disposition standard has been very good. Disposition monitoring in the monthly Standards and Goals Administrative Judges' Term Reports began in August 1979. For the year 1980, all counties attained a disposition compliance rate of over 90 percent.

2.2 Criminal Actions

The standards and goals provided that by January 1, 1980, no felony case shall have been pending more than six terms from the filing of an indictment. The standard was to be achieved in five stages. The fourth stage provided that by March 1, 1979, no Class A or violent felony should have been pending more than six months. The fifth stage provided that by January 1, 1980, no felony should have been pending more than six terms.

Statewide, 7,618 defendant-indictments alleging felony charges had been pending more than nine months as of summer 1975. The figure declined by 61 percent to 2,949 in summer 1978, and by 69 percent to 2,346 in summer 1980.

Over the past six years, the number of defendant-indictments pending more than nine months was reduced in eight judicial districts and in New York City (districts 1, 2, and 11). As of summer 1980, there were 586 defendant-indictments which had been pending for more than nine months in the districts outside New York City. This represents almost a 70 percent decrease from the 1,930 cases which were pending more than nine months as of summer 1975. New York City has also demonstrated significant progress in this regard, going from a summer 1975 figure of 5,688 cases to 1,760 cases pending more than nine months as of summer 1980. This is a 69 percent decrease.

An inspection of Figure 4 and Table 3 shows that the number of defendant-indictments pending for more than six months decreased from 4,012 in summer 1979 to 3,997 during summer 1980. New York City had an increase from 2,877 in summer 1979, to 2,991 during summer 1980. The districts outside of New York City experienced a decrease from 1,135 in summer 1979 to 1,006 as of summer 1980. The six-month breakdown, which reflects the current six term standard for defendant-indictments, is not available for pre-1979 statistics.

Although the number of total pending defendant-indictments has decreased from 20,780 in 1975 to 14,249 in 1980, there has been a gradual increase since 1978, as may be seen by referring to Figure 4. In spite of this increase, progress has been made in attaining the standards and goals. The number of cases older than nine months comprised 37 percent of the pending caseload in 1975, 23 percent of the 1978 pending caseload, and 16 percent of the 1979 pending caseload. During 1980, this figure was, again, 16 percent of the pending caseload. For those cases pending more than six months, this represented 31 percent of the 1979 pending caseload and 28 percent of the 1980 pending caseload. If the number of total pending defendant-indictments continues to increase, reflecting in part the increase in filings, this may have an adverse affect on the ability of the courts to continue this improvement.

Progress continued in reducing the number of felony defendant-indictments in which the defendant had been jailed for more than one year while awaiting commencement of trial or disposition. Statewide, this figure decreased by 52 percent, from 349 as of October 1, 1975, to 166 as of summer 1980. Outside New York City, there were six counties — Nassau (4 defendants), Steuben (1 defendant), Erie (4 defendants), Sullivan, (1 defendant), Dutchess (1 defendant), and Warren (1 defendant) — which had defendants in jail for more than one year, as of December 28, 1980. The number of defendants (shown in parentheses in Table 4) is not available for New York City at this time.

In New York City there were 321 defendant-indictments representing felony defendants jailed for more than one year as of October 1, 1975. As of July 31, 1980, this number decreased by 52 percent to 154 defendant-indictments for felony defendants in jail for more than one year. The New York City counties showed individual progress. In Bronx County, the number decreased by 91 percent from 68 to 6 defendant-indictments; in New York County it decreased 44 percent, from 100 to 56; in Kings County it decreased 56 percent, from 135 to 59. Queens County experienced an increase of 83 percent, from 18 to 33. Richmond County had no jailed felony defendants as of October 1, 1975, and also none as of July 31, 1980. The number of year-old jailed defendant-indictments in New York City increased from 102 to 154 for the period December 30, 1979, to July 31, 1980. Please note that the jailed defendant-indictment figures for New York City are as of July 31, 1980, because December 28, 1980 figures are not available at this time (see Table 4).

2.3 Civil Actions

The standards and goals for the disposition of civil actions in Supreme Court provided that by January 1, 1980, no civil actions shall have been pending more than 15 terms from the filing of a note of issue.

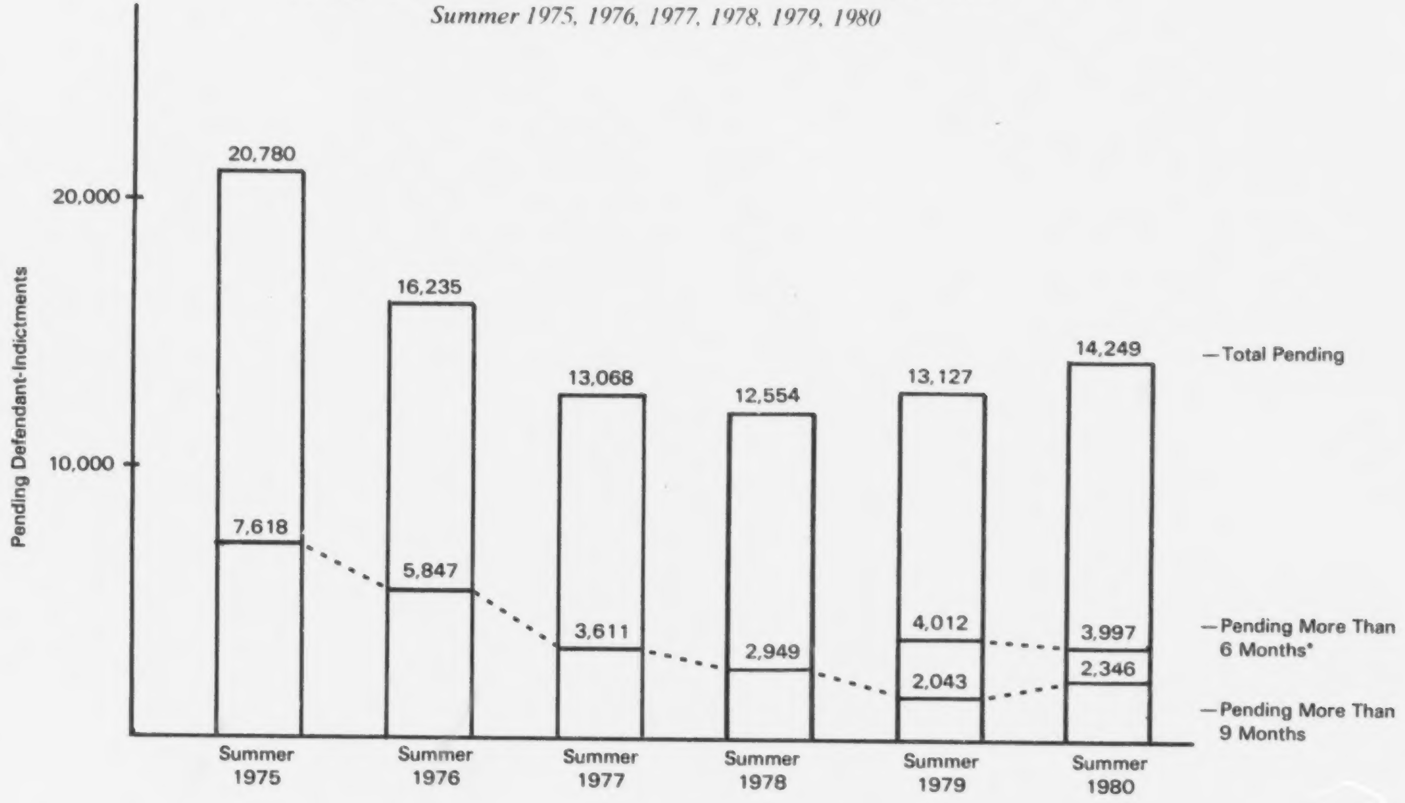
During 1980, there was great progress toward achieving the standards and goals for disposition of civil actions in the Supreme Court. For summer 1980, there were 8,609 civil actions pending longer than 18 months statewide. This represents a 28 percent decrease from the summer 1975 figure of 11,883, and a 47 percent decrease from the summer 1979 figure of 16,175. For civil actions pending longer than 12 months statewide, the summer 1980 figure was 11,492. This is a 43 percent decrease from the summer 1975 figure of 19,997, and a 56 percent decrease from the summer 1979 figure of 25,830. A review of Figure 5 and Table 5 shows that for the number of civil actions pending longer than 15 months, statewide there was a 44 percent decrease from 20,661 in summer 1979 to 11,492 as of summer 1980. This breakdown reflects the current 15 term standard for civil actions. This breakdown is not available for the pre-1979 statistics.

Much of the decrease in older civil actions is attributed to New York City. Between summer 1975 and summer 1979, the number of civil actions pending more than 18 months had increased 148 percent, compared with a 2 percent decrease upstate. However, the summer 1980 statistics show a 54 percent decrease from the 1979 New York City figure and a 40 percent decrease from the 1979 upstate figure. An analysis of civil actions pending more than 15 months in New York City during 1980 showed that 45 percent were cases in which the City of New York was a defendant. These "City cases" have historically been difficult to dispose of in a timely manner, but progress has been made, for the 1979 statistics showed "City cases" to be 50 percent of the New York City total pending caseload as compared to the 1980 figure of 32 percent.

During summer 1980, the districts outside of New

Figure 4
PENDING DEFENDANT-INDICTMENTS STATEWIDE BY YEAR

Summer 1975, 1976, 1977, 1978, 1979, 1980



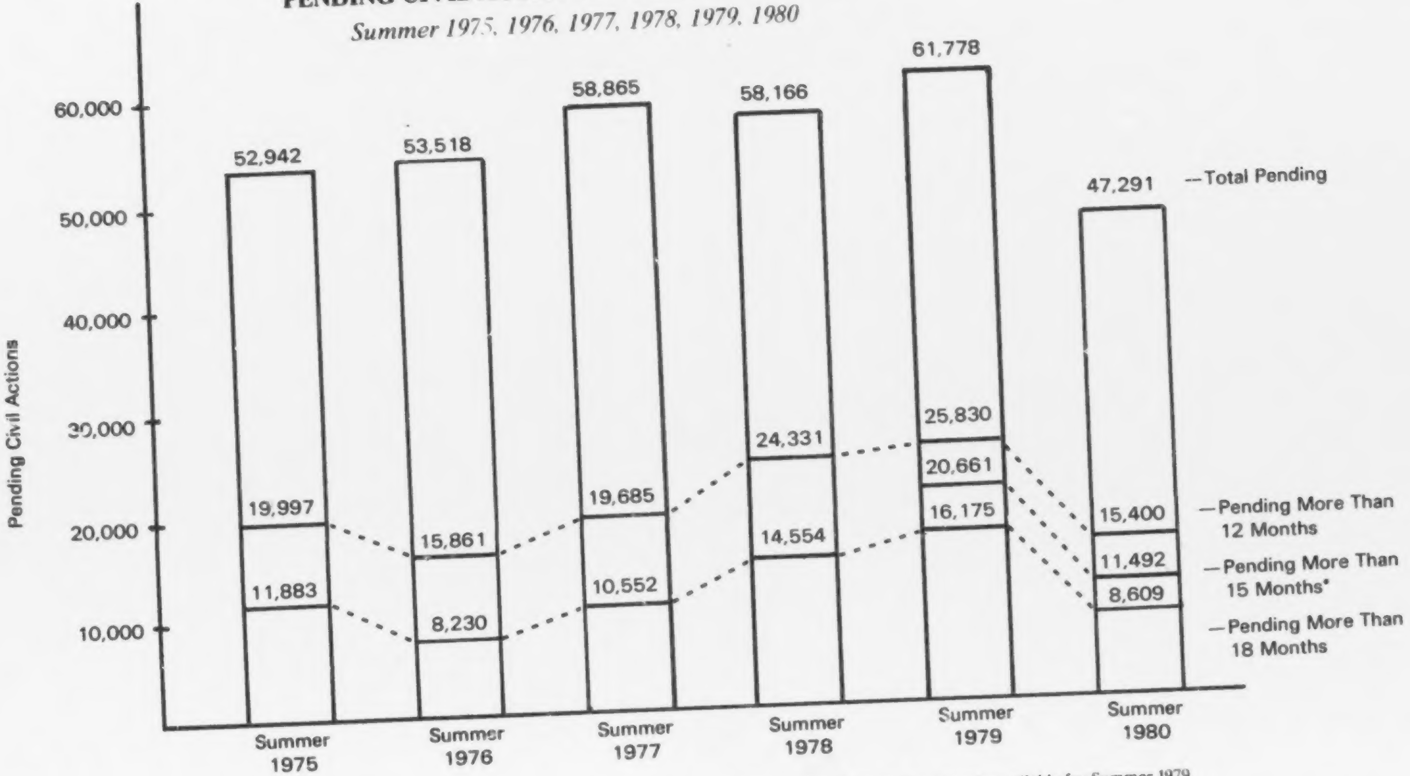
Source: OCA Summer Inventory

*The 6 month breakdown is only available for Summer 1979 and Summer 1980 statistics. This reflects the current standard for defendant-indictments.

Figure 5

PENDING CIVIL ACTIONS STATEWIDE BY YEAR

Summer 1975, 1976, 1977, 1978, 1979, 1980



*The 15 month breakdown is only available for Summer 1979 and Summer 1980 statistics. This reflects the current standard for civil actions.

Source: OCA Summer Inventory

York City had 6,889 civil actions pending longer than 15 months as compared to 11,098 during summer 1979. This is a decrease of 38 percent.

Inspection of the figures for civil actions pending more than 12 months shows that districts outside of New York City had a 41 percent decrease from 15,318 in summer 1975 to 9,075 cases pending longer than 12 months as of summer 1980. New York City experienced a 35 percent increase during this period. However, this is an improvement over the 154 percent increase seen over the period from 1975 to 1979 for those cases pending longer than 12 months.

By 1979, New York City had experienced an 83 percent increase above the 1975 total pending figure, and the upstate counties had decreased their total pending by 9 percent. However, between 1979 and 1980, the total pending figure in New York City decreased by 35 percent, from 26,659 to 17,332. The upstate counties realized a decrease of 22 percent, from 38,393 in 1975 to 29,959 in 1980.

The number of civil actions pending more than 18 and more than 12 months as percentages of the total caseload is shown in Table 6. The 18-month breakdown is shown only for pre-1979 data. The summer 1979 and summer 1980 figures show a 15-month breakdown to reflect the current standard for civil actions. As of summer 1980, 24 percent of the caseload had been pending more than 15 months statewide: 27 percent in New York City, and 23 percent in upstate counties. Also, as of summer 1980, 33 percent of the caseload had been pending more than 12 months statewide: 36 percent in New York City and 30 percent upstate.

The total number of civil actions pending in 1980 was 47,291, which represents a decrease of 11 percent from the 1975 figure of 52,942 and a decrease of 23 percent from the 1979 figure of 61,778.

Table 2

STANDARDS AND GOALS
Percentage of Family Court Proceedings Completing Fact Finding in 90 Days or Less by County and Judicial District

Oct. 31, 1976, Dec. 31, 1977, 1978, Dec. 30, 1979, Dec. 28, 1980

County	Oct. 31, 1976	Dec. 31, 1977	Dec. 31, 1978	Dec. 30, 1979	Dec. 28, 1980
Albany	99.8	99.0	100.0	100.0	100.0
Allegany	84.9	92.8	97.6	94.6	89.9
Bronx	75.7	77.4	83.7	80.1	81.0
Broome	98.8	99.9	100.0	100.0	100.0
Cattaraugus	90.0	94.1	97.5	95.9	86.2
Cayuga	97.0	99.2	100.0	99.9	100.0
Chautaugua	95.3	97.5	96.6	98.3	98.1
Chemung	94.1	97.0	97.5	96.8	97.7
Chenango	97.9	98.1	98.6	98.7	98.9
Clinton	99.8	99.7	99.6	99.3	99.7
Columbia	92.4	98.9	98.9	98.3	97.3
Cortland	98.4	96.9	97.9	97.8	97.6
Delaware	96.9	99.5	99.8	100.0	99.7
Dutchess	81.8	90.4	91.5	94.9	97.3
Erie	92.7	89.3	86.0	91.7	92.2
Essex	83.9	97.0	96.9	98.4	94.5
Franklin	95.6	89.5	98.7	98.0	98.6
Fulton	97.8	97.9	96.6	97.7	97.3
Genesee	96.1	94.7	94.6	95.8	94.4
Greene	97.3	97.0	98.0	94.8	98.0
Hamilton	95.5	98.8	98.4	92.7	98.8
Herkimer	96.6	97.2	97.1	95.7	98.3
Jefferson	97.6	99.1	99.9	100.0	100.0
Kings	77.6	92.6	95.3	94.0 •	90.6
Lewis	95.8	98.3	97.5	100.0	100.0
Livingston	80.4	96.8	94.8	97.7	97.9
Madison	99.3	99.9	99.9	99.8	99.3
Monroe	78.3	85.2	83.2	91.6	92.6
Montgomery	97.5	99.2	98.8	97.7	98.6
Nassau	95.4	90.2	89.9	94.3	94.7
New York	72.0	84.0	90.2	85.1	89.3
New York Foster Care	62.8	87.1	87.8	88.7	96.1
Niagara	85.3	97.6	96.5	97.8	97.1
Oneida	94.3	96.5	98.2	96.5	86.2
Onondaga	91.9	92.8	89.3	89.9	88.9 •
Ontario	87.8	93.2	92.8	94.6	93.2
Orange	97.5	98.6	98.8	98.8	96.4
Orleans	88.0	85.7	83.3	89.8	91.6
Oswego	97.9	95.8	97.9	97.5	99.1
Otsego	97.8	99.4	97.8	99.3	99.9
Putnam	98.7	96.5	92.4	85.8	84.2
Queens	77.5	79.8	77.4	79.7 •	90.1 •
Rensselaer	97.2	99.5	99.3	100.0	99.9
Richmond	99.1	94.6	94.0	96.9	99.2
Rockland	95.6	96.5	87.6	88.5	93.7
St. Lawrence	96.7	95.9	90.9	96.5	96.6
Saratoga	97.1	98.8	98.2	95.4	97.6
Schenectady	99.1	99.0	98.7	99.0	99.7
Schoharie	99.5	100.0	98.8	96.4	97.3
Schuyler	99.1	100.0	100.0	100.0	100.0
Seneca	89.5	91.4	92.4	95.2	96.0
Steuben	93.8	95.3	94.3	92.4	92.7 •
Suffolk	84.0	84.5	84.3	91.0	90.6
Sullivan	96.9	97.7	99.0	99.7	99.9
Tioga	97.0	99.5	99.5	99.8	99.7
Tompkins	85.8	82.9	95.1	98.9	97.6
Ulster	93.2	89.9	92.3	94.9	95.1
Warren	91.4	98.8	98.5	98.7	93.5
Washington	97.5	99.3	98.8	99.5	99.9
Wayne	91.7	95.2	97.3	94.6	93.6
Westchester	92.9	88.9	89.3	86.9	88.2
Wyoming	90.9	92.5	91.8	93.6	96.8
Yates	93.9	96.9	96.1	94.9	87.6
Judicial District					
New York City (1, 2, 11 & Foster Care)	72.7	85.5	87.4	87.0 •	89.2 •
District 3	96.9	97.8	98.3	98.6	98.7
District 4	97.0	97.5	97.4	97.8	97.9
District 5	94.0	94.7	93.4	93.2	92.4 •
District 6	97.4	97.5	98.8	99.1	99.2
District 7	84.5	89.6	88.8	93.3	93.6 •
District 8	91.9	92.0	89.8	93.5	93.2
District 9	92.4	91.0	91.3	90.4	91.5
District 10	89.5	86.7	86.6	92.3	92.3

*Estimate

Source: Family Court Administrative Judge Term Reports: December 1975 through October 1976, January 1977 through December 1977, January 1978 through December 1978, January 1979 through December 1979, and January 1980 through December 1980.

Table 3

STANDARDS AND GOALS

Defendant-Indictments Alleging Felony Charges Pending for More Than Nine Months: Summer 1975, 1976, 1977, 1978; and Pending More Than Six Months: Summer 1979, 1980*

County	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979*	Summer 1980*
Albany	47	41	28	16	18	34
Allegany	15	5	1	0	0	0
Bronx	1,171	1,077	706	420	549	645
Broome	17	8	4	2	9	14
Cattaraugus	6	0	0	2	3	0
Cayuga	3	6	2	2	3	13
Chautaugua	24	3	1	1	13	10
Chemung	18	20	5	12	15	19
Chenango	0	0	0	0	2	0
Clinton	34	30	8	3	4	26
Columbia	3	11	8	17	4	11
Cortland	0	0	4	1	6	0
Delaware	2	2	0	0	0	2
Dutchess	35	59	5	5	10	82
Erie	129	165	122	281	180	215
Essex	18	5	1	4	1	5
Franklin	7	0	4	6	7	14
Fulton	0	6	0	0	4	25
Genesee	4	1	2	0	5	0
Greene	75	29	29	10	8	6
Hamilton	0	0	0	0	0	0
Herkimer	1	4	1	2	5	3
Jefferson	2	7	0	2	11	3
Kings	2,178	1,291	702	496	909	977
Lewis	0	1	4	2	3	4
Livingston	17	8	4	0	6	7
Madison	7	0	2	2	0	0
Monroe	138	200	112	226	112	109
Montgomery	4	2	1	2	16	20
Nassau	375	370	118	150	194	114
New York	1,909	1,241	1,032	558	971	805
Niagara	6	6	12	16	18	12
Oneida	29	30	9	29	37	20
Onondaga	15	28	27	10	16	23
Ontario	5	3	0	0	1	0
Orange	40	31	20	3	16	2
Orleans	1	2	0	7	3	9
Oswego	2	20	0	5	3	0
Otsego	3	1	0	1	1	11
Putnam	4	19	6	0	4	0
Queens	398	262	234	365	433	553
Rensselaer	13	30	7	13	15	29
Richmond	32	48	23	5	15	11
Rockland	22	5	3	0	5	3
St. Lawrence	3	2	0	0	4	3
Saratoga	2	2	0	1	8	1
Schenectady	3	14	31	18	31	21
Schoharie	0	0	0	0	2	0
Schuyler	1	0	0	0	0	1
Seneca	6	6	0	4	2	12
Steuben	7	16	2	10	11	4
Suffolk	358	409	183	168	191	50
Sullivan	31	26	13	11	4	0
Tioga	13	11	4	4	1	0
Tompkins	27	9	7	7	14	11
Ulster	60	31	45	18	17	16
Warren	0	3	0	1	3	2
Washington	6	2	0	2	3	0
Wayne	3	5	0	1	0	5
Westchester	286	233	77	28	86	35
Wyoming	0	1	2	5	0	0
Yates	3	0	0	0	0	0
Judicial District						
New York City (1, 2, & 11)	5,688	3,919	2,697	1,844	2,877	2,991
District 3	299	168	130	85	68	96
District 4	77	66	45	37	81	117
District 5	49	90	41	50	75	53
District 6	88	51	26	29	48	58
District 7	182	244	120	243	135	150
District 8	185	183	140	312	222	246
District 9	387	347	111	36	121	122
District 10	733	779	301	318	385	164
Total State	7,618	5,847	3,611	2,954	4,012	3,997

*The six-month breakdown is only available for Summer 1979 and Summer 1980. This reflects the current standard for defendant-indictments.

Source: 1975, 1976, 1977, 1978, 1979 and 1980 summer inventory data on pending defendant-indictments.

Table 4

STANDARDS AND GOALS

Number of Defendant-Indictments Where Defendants Have Been Jailed for More Than One Year by County

Oct. 1, 1975, 1976 and Dec. 31, 1977, 1978, Dec. 30, 1979, Dec. 28, 1980

County	Number of Jailed Defendant-Indictments*					
	Oct. 1, 1975	Oct. 1, 1976	Dec. 31, 1977	Dec. 31, 1978	Dec. 30, 1979	Dec. 28, 1980
New York	100	24	10 (8)	50 (36)	52 (41)	56**
Bronx	68	21	2 (2)	0	7 (5)	6**
Queens	18	11	13 (11)	26 (18)	4 (4)	33**
Kings	135	6	6 (5)	25 (20)	38 (29)	59**
Richmond	0	0	1 (1)	0	1 (1)	0**
Suffolk	9	4	0	0	0	0
Nassau	3	3	1 (1)	2 (2)	1 (1)	4 (4)
Onondaga	0	1	0	0	0	0
Orange	3	0	0	0	4 (4)	0
Tompkins	3	0	0	0	0	0
Westchester	2	0	0	0	3 (3)	0
Steuben	2	0	0	0	0	1 (1)
Erie	1	0	7 (7)	6 (6)	2 (2)	4 (4)
Genesee	1	0	0	0	0	0
Sullivan	1	0	1 (1)	0	0	1 (1)
Ulster	1	0	0	0	1 (1)	0
Washington	1	0	0	0	0	0
Oneida	1	0	0	0	0	0
Monroe	0	0	0	1 (1)	2 (2)	0
Dutchess	0	0	0	0	1 (1)	1 (1)
Warren	0	0	0	0	0	1 (1)
Total State	349	70	41 (36)	110 (83)	116 (94)	166 (12)***

*The number of defendants is shown in parentheses. Data is not available on the number of defendants jailed for more than one year prior to December 31, 1977.

**Data as of December 28, 1980 is not available for New York City; the figures shown are as of July 31, 1980 — OCA Summer Inventory. The number of defendants is also not available at this time for New York City.

***This Total State figure reflects the preceding footnote.

Table 5

(Partial)

STANDARDS AND GOALS

Summary of Pending Civil Actions in Supreme Court by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979, 1980

County	Total Pending						Pending Longer Than 18 Months				Pending Longer Than 15 Months*		Pending Longer Than 12 Months					
	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1980	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979*	Summer 1980*	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1980
Albany	1511	1654	1581	1183	977	855	153	81	133	106	136	132	383	370	466	459	294	268
Allegany	48	64	45	59	38	18	1	3	1	4	5	0	4	8	6	8	14	0
Broome	318	245	205	210	276	304	46	3	0	1	1	0	91	15	1	4	2	14
Bronx	3627	2101	2258	2701	3231	1674	1200	328	338	908	1455	515	1830	531	669	1288	1655	649
Cattaraugus	74	90	85	70	52	44	1	6	11	12	6	0	10	17	20	21	8	1
Cayuga	80	106	59	55	32	50	5	0	0	0	0	0	18	0	0	0	0	0
Chautaugua	224	234	154	151	155	165	42	18	12	11	23	28	76	54	32	35	39	40
Chemung	393	303	190	108	131	149	63	35	8	0	3	0	127	124	23	2	5	1
Chenango	17	19	24	28	26	26	1	0	0	0	0	0	2	1	0	0	0	0
Clinton	110	130	107	83	82	118	12	8	2	5	7	3	18	19	3	11	9	8
Columbia	61	74	107	71	56	49	5	6	6	8	4	2	8	17	12	20	5	6
Cortland	42	28	17	36	32	29	3	0	0	0	2	0	6	0	0	3	4	1
Delaware	77	89	75	28	40	31	2	13	1	3	0	0	20	20	7	4	0	0
Dutchess	551	479	496	530	467	471	15	18	19	42	65	52	110	69	66	143	103	94
Erie	7033	5012	5745	5454	5746	3012	2139	1424	1957	3261	3670	1038	3637	2440	3028	4185	4030	1216
Essex	76	83	34	33	49	48	11	10	1	1	4	8	23	24	10	3	6	11
Franklin	90	91	90	62	85	106	15	13	9	21	15	37	27	24	26	37	18	46
Fulton	222	253	214	138	148	151	19	28	12	10	8	8	36	74	37	31	14	14
Genesee	51	60	50	74	111	49	2	0	2	5	6	10	8	2	30	12	18	12
Greene	101	116	95	67	58	68	10	19	12	4	2	4	26	44	28	8	6	7
Herkimer	167	151	173	118	113	108	7	1	1	2	7	2	20	13	11	11	11	4
Jefferson	162	255	122	94	104	100	45	31	4	1	1	0	76	55	16	2	1	6
Kings	4050	5368	6304	6375	7680	5121	299	289	1023	1885	3924	1712	693	1098	2376	3224	4499	2258
Lewis	29	25	15	9	10	11	1	0	0	0	0	0	1	1	0	0	0	0
Livingston	55	56	76	39	30	48	1	0	0	0	1	0	4	3	2	4	2	0
Madison	53	27	34	57	55	42	0	0	0	0	0	7	2	0	0	0	0	10
Monroe	3563	2162	2172	2033	1629	1189	333	204	244	364	321	51	1049	618	735	755	469	86
Montgomery	177	197	213	160	142	157	34	33	22	4	16	14	67	54	64	37	28	25
Nassau	6304	6519	7118	7211	7854	8700	1599	1169	1810	1924	2439	2938	2744	2590	3063	3059	3113	3497
New York	5300	5631	8289	9558	10650	7077	1408	703	962	1780	3034	1931	1961	1164	1925	3024	4093	2523
Niagara	681	601	390	351	297	358	146	75	10	6	9	43	258	141	52	16	27	74
Oneida	751	650	569	560	581	439	8	8	10	60	25	11	49	35	22	99	48	22
Onondaga	2711	2704	2578	1754	1409	959	891	810	722	340	307	40	1460	1345	1263	774	464	107
Ontario	92	59	60	60	61	71	0	0	0	0	1	0	2	3	2	0	1	0

Table 5
(Concluded)

STANDARDS AND GOALS

Summary of Pending Civil Actions in Supreme Court by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979, 1980

County	Total Pending						Pending Longer Than 18 Months				Pending Longer Than 15 Months*		Pending Longer Than 12 Months					
	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1980	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979*	Summer 1980*	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1980
Orange	800	822	900	663	697	710	123	70	155	69	104	32	301	247	313	210	164	99
Orleans	10	22	16	24	18	21	0	0	0	0	1	0	0	0	1	1	0	2
Oswego	225	130	161	130	201	238	21	2	10	1	0	5	39	11	15	2	4	31
Otsego	46	51	47	39	78	65	4	0	10	0	5	1	12	3	2	0	14	3
Putnam	136	168	173	188	294	347	36	17	4	1	61	111	72	21	31	38	92	148
Queens	1278	3437	4144	3998	4475	2904	87	70	29	426	1038	382	136	127	579	1324	1464	753
Rensselaer	398	393	350	327	353	293	65	35	13	19	36	32	111	51	66	59	81	71
Richmond	294	396	400	463	623	551	48	50	41	50	112	63	59	71	78	112	182	143
Rockland	704	834	824	977	952	737	85	45	55	75	112	107	227	156	154	227	222	176
St. Lawrence	106	118	82	72	56	72	7	7	0	2	0	1	12	14	11	2	0	1
Saratoga	468	465	332	267	207	355	48	13	6	4	6	13	153	145	70	33	12	34
Schenectady	1374	1616	1420	1202	962	796	256	422	451	448	382	99	549	746	729	645	468	181
Schoharie	38	22	41	42	57	32	4	0	3	2	9	8	7	0	9	8	10	11
Schuyler	6	5	8	1	4	9	2	0	0	0	0	0	2	0	0	0	0	0
Seneca	19	13	26	8	13	16	0	0	0	0	0	0	0	2	0	0	0	0
Steuben	73	56	33	27	60	110	9	5	2	0	1	0	9	6	2	1	3	0
Suffolk	4549	5086	6312	6452	6621	4961	1754	1625	2111	2201	2865	1676	2231	2353	2830	3365	3451	2110
Sullivan	222	296	225	244	202	225	42	29	13	12	14	11	63	50	27	42	25	23
Tioga	60	52	39	35	23	45	15	4	0	1	1	1	23	4	1	2	1	2
Tompkins	121	120	110	106	111	134	14	3	3	1	3	0	27	6	4	5	5	0
Ulster	461	409	376	359	390	379	25	3	5	6	9	2	74	19	24	34	23	48
Warren	148	140	79	44	72	108	21	24	6	0	0	2	34	43	13	0	2	11
Washington	50	48	59	27	61	27	5	0	1	0	2	0	13	0	10	1	2	1
Wayne	64	59	63	48	68	67	0	0	1	0	2	2	0	1	1	1	3	8
Westchester	2512	3087	2837	2860	2718	2264	695	437	278	461	391	356	996	808	713	927	620	541
Wyoming	17	21	29	38	50	17	0	2	3	7	10	2	1	3	7	10	13	3
Yates	12	16	25	5	5	11	0	1	0	0	0	0	0	1	0	1	0	0
Judicial District																		
New York City (1, 2, 11)	14,549	16,933	21,395	23,095	26,659	17,332	3042	1440	2393	5049	9563	4603	4679	2991	5627	8972	11,875	6325
District 3	2792	2964	2775	2293	2093	1901	304	173	185	157	210	191	672	551	632	630	444	434
District 4	2771	3141	2630	2088	1864	1939	428	588	510	495	440	185	932	1143	973	800	559	335
District 5	4045	3915	3618	2665	2418	1873	973	852	747	404	340	58	1645	1460	1327	888	528	170
District 6	1133	939	749	648	776	830	150	58	12	6	15	9	312	173	38	22	31	31
District 7	3958	2527	2514	2275	1898	1550	348	210	247	364	326	53	1082	634	742	762	478	94
District 8	8138	6104	6514	6221	6467	3683	2331	1528	1996	3306	3730	1121	3994	2665	3176	4288	4150	1348
District 9	4703	5390	5230	5218	5128	4522	954	587	511	648	733	658	1706	1301	1277	1545	1201	1058
District 10	10,853	11,605	13,430	13,663	14,475	13,661	3353	2794	3921	4125	5304	4614	4975	4943	5893	6424	6564	5605
Total State	52,942	53,518	58,855	58,166	61,798	47,291	11,883	8230	10,522	14,554	20,661	11,492	19,997	15,861	19,685	24,331	25,830	15,400

*These Summer 1979 and Summer 1980 figures show Civil Actions which were pending longer than 15 months. This reflects the current standard for Civil Actions. This breakdown is not available for pre-1979 figures.

Source: Standards and Goals Summer Inventory of Pending Civil Actions in Supreme Court — 1975, 1976, 1977, 1978, 1979 and 1980. Figures exclude uncontested matrimonials.

Table 6

(Partial)

STANDARDS AND GOALS

Percentage of Civil Actions in Supreme Court Pending Longer Than Eighteen Months and Longer Than Twelve Months by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979, 1980

County	Pending Longer Than 18 Months				Pending Longer Than 15 Months*		Pending Longer Than 12 Months					
	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979*	Summer 1980*	Summer 1975	Summer 1976	Summer 1977	Summer 1978	Summer 1979	Summer 1980
Albany	10.1	4.9	8.4	9.0	13.9	15.4	25.3	22.3	29.5	38.8	30.0	31.3
Allegany	2.1	4.7	2.2	6.8	13.1	0.0	8.3	12.5	13.3	13.6	36.8	0.0
Broome	14.4	1.2	0.0	0.5	0.3	0.0	28.6	6.1	0.5	1.9	0.7	4.6
Bronx	33.1	15.6	15.0	33.6	45.0	30.7	50.5	25.3	29.6	47.7	51.2	38.7
Cattaraugus	1.4	6.7	12.9	17.1	11.5	0.0	13.5	18.9	23.5	30.0	15.3	2.2
Cayuga	6.3	0.0	0.0	0.0	0.0	0.0	22.5	0.0	0.0	0.0	0.0	0.0
Chautauqua	18.6	7.7	7.8	7.3	14.8	16.9	33.9	23.1	20.8	23.2	25.1	24.2
Chemung	16.0	11.6	4.2	0.0	2.2	0.0	32.3	40.9	12.1	1.9	3.8	0.6
Chenango	5.9	0.0	0.0	0.0	0.0	0.0	11.8	5.3	0.0	0.0	0.0	0.0
Clinton	10.9	6.2	1.9	6.0	8.5	2.5	16.4	14.6	2.8	13.3	10.9	6.7
Columbia	8.2	8.1	5.6	11.3	7.1	4.0	13.1	23.0	11.2	28.2	8.9	12.2
Cortland	7.1	0.0	0.0	0.0	6.2	0.0	14.3	0.0	0.0	8.3	12.5	3.4
Delaware	2.6	14.6	1.3	10.7	0.0	0.0	26.0	22.5	9.3	14.3	0.0	0.0
Dutchess	2.7	3.8	3.8	7.9	13.9	11.0	20.0	14.4	13.3	27.0	22.0	19.9
Erie	30.4	28.4	34.1	59.8	63.8	34.4	52.7	48.7	52.7	76.7	70.1	40.3
Essex	14.5	12.0	2.9	3.0	8.1	16.6	30.3	28.9	29.4	9.1	12.2	22.9
Franklin	16.7	14.3	10.0	33.9	17.6	34.9	30.0	26.4	28.9	59.7	21.1	43.3
Fulton	8.6	11.1	5.6	7.2	5.4	5.2	16.2	29.2	17.3	22.5	9.4	9.2
Genesee	3.9	0.0	4.0	6.8	5.4	20.4	15.7	3.3	60.0	16.2	16.2	24.4
Greene	9.9	16.4	12.6	6.0	3.4	5.8	25.7	37.9	29.5	11.9	10.3	10.2
Herkimer	4.2	0.7	0.6	1.7	6.1	1.8	12.0	8.6	6.4	9.3	9.7	3.7
Jefferson	27.8	12.2	3.3	1.1	0.9	0.0	46.9	21.6	13.1	2.1	0.9	6.0
Kings	7.4	5.4	16.2	29.6	51.0	33.4	17.1	20.5	37.7	50.6	58.5	44.0
Lewis	3.4	0.0	0.0	0.0	0.0	0.0	3.4	4.0	0.0	0.0	0.0	0.0
Livingston	1.8	0.0	0.0	0.0	3.3	0.0	7.3	5.4	2.6	10.3	6.6	0.0
Madison	0.0	0.0	0.0	0.0	0.0	16.6	3.8	0.0	0.0	0.0	0.0	23.8
Monroe	9.3	9.4	11.2	17.9	19.7	4.2	29.4	28.6	33.8	37.1	28.7	7.2
Montgomery	19.2	16.8	10.3	2.5	11.2	8.9	37.9	27.4	30.0	23.1	19.7	15.9
Nassau	25.4	17.9	25.4	26.7	31.0	33.7	43.5	39.7	43.0	42.4	39.6	40.1
New York	26.6	12.5	11.6	18.6	28.4	27.2	37.0	20.7	23.2	31.6	38.4	35.6
Niagara	21.4	12.5	2.6	1.7	3.0	12.0	37.9	23.5	13.3	4.6	9.0	20.6
Oneida	1.1	1.2	1.8	10.7	4.3	2.5	6.5	5.4	3.9	17.7	8.2	5.0
Onondaga	32.9	30.0	28.0	19.4	21.7	4.1	53.9	49.7	49.0	44.1	32.9	11.1
Ontario	0.0	0.0	0.0	0.0	1.6	0.0	2.2	5.1	3.3	0.0	1.6	0.0

Table 6

(Concluded)

STANDARDS AND GOALS

Percentage of Civil Actions in Supreme Court Pending Longer Than Eighteen Months and Longer Than Twelve Months by County, Judicial District and Year

Summer 1975, 1976, 1977, 1978, 1979, 1980

	Pending Longer Than 18 Months				Pending Longer Than 15 Months*		Pending Longer Than 12 Months					
County	**Summer 1975**	**Summer 1976**	**Summer 1977**	**Summer 1978**	**Summer 1979***	**Summer 1980***	**Summer 1975**	**Summer 1976**	**Summer 1977**	**Summer 1978**	**Summer 1979**	**Summer 1980**
Orange	15.4	8.5	17.2	10.4	14.9	4.5	37.6	30.0	34.8	31.7	23.5	13.9
Orleans	0.0	0.0	0.0	0.0	5.5	0.0	0.0	0.0	6.3	4.2	0.0	9.5
Oswego	9.3	1.5	6.2	0.8	0.0	2.1	17.3	8.5	9.3	1.5	1.9	13.0
Otsego	8.7	0.0	0.0	0.0	6.4	1.5	26.1	5.9	4.3	0.0	17.9	4.6
Putnam	26.5	10.1	2.3	0.5	20.7	31.9	52.9	12.5	17.9	20.2	31.2	42.6
Queens	6.8	2.0	0.7	10.7	23.1	13.1	10.6	3.7	14.0	33.1	32.3	25.9
Rensselaer	16.3	8.9	3.7	5.8	10.1	10.9	27.9	13.0	18.9	18.0	22.9	24.2
Richmond	16.3	12.6	10.3	10.8	17.9	11.4	20.1	17.9	19.5	24.2	29.2	25.9
Rockland	12.1	5.4	6.7	7.7	11.7	14.5	32.2	18.7	18.7	23.2	23.3	23.8
St. Lawrence	6.6	5.9	0.0	2.8	0.0	1.3	11.3	11.9	13.4	2.8	0.0	1.3
Saratoga	10.3	9.2	1.8	1.5	2.8	3.6	32.7	31.2	21.1	12.4	5.7	9.5
Schenectady	19.3	26.1	31.8	37.3	39.7	12.4	41.5	46.2	51.3	53.7	48.6	22.7
Schoharie	10.5	0.0	7.3	4.8	15.7	25.0	18.4	0.0	22.0	19.0	17.5	34.3
Schuyler	33.3	0.0	0.0	0.0	0.0	0.0	33.3	0.0	0.0	0.0	0.0	0.0
Seneca	0.0	0.0	0.0	0.0	0.0	0.0	0.0	15.4	0.0	0.0	0.0	0.0
Steuben	12.3	8.9	6.1	0.0	1.6	0.0	12.3	10.7	6.1	3.7	5.0	0.0
Suffolk	38.6	32.0	33.4	34.1	43.2	33.7	49.0	46.3	44.8	52.2	52.1	42.5
Sullivan	18.9	9.8	5.8	4.9	6.9	4.8	28.4	16.9	12.0	17.2	12.3	10.2
Tioga	25.0	7.7	0.0	2.9	4.3	2.2	38.3	7.7	2.6	5.7	4.3	4.4
Tompkins	11.6	2.5	2.7	0.9	2.7	0.0	22.3	5.0	3.6	4.7	4.5	0.0
Ulster	5.4	0.7	1.3	1.7	2.3	0.5	16.1	4.6	6.4	9.5	5.8	12.6
Warren	14.2	17.1	7.6	0.0	0.0	1.8	23.0	30.7	16.5	0.0	2.7	10.1
Washington	10.0	0.0	1.7	0.0	3.2	0.0	26.0	0.0	16.9	3.7	3.2	3.7
Wayne	0.0	0.0	1.6	0.0	2.9	2.9	0.0	1.7	1.6	2.1	4.4	11.9
Westchester	27.7	14.2	9.8	16.1	14.3	15.7	39.6	26.2	25.1	32.4	22.8	23.8
Wyoming	0.0	9.5	10.3	18.4	20.0	11.7	5.9	14.3	24.1	26.3	26.0	17.6
Yates	0.0	6.3	0.0	0.0	0.0	0.0	0.0	6.3	0.0	20.0	0.0	0.0
Judicial District												
New York City (1, 2 & 11)	20.9	8.5	11.2	21.9	35.8	26.5	32.2	17.7	26.3	38.8	44.5	36.4
District 3	10.9	5.8	6.7	6.8	10.0	10.0	24.1	18.6	22.8	27.5	21.2	22.8
District 4	15.4	18.7	19.4	23.7	23.6	9.5	33.6	36.4	37.0	38.3	29.9	17.2
District 5	24.1	21.8	20.6	15.2	14.0	3.0	40.7	37.3	36.7	33.3	21.8	9.0
District 6	13.2	6.2	1.6	0.9	1.9	1.0	27.5	18.4	5.1	3.4	3.9	3.7
District 7	8.8	8.3	9.8	16.0	17.1	3.4	27.3	25.1	29.5	33.5	25.1	6.0
District 8	28.6	25.0	30.6	53.1	57.6	30.4	49.1	43.7	48.8	68.9	64.1	36.6
District 9	20.3	10.9	9.8	12.4	14.2	14.5	36.3	24.1	24.4	29.6	23.4	23.3
District 10	30.9	24.1	29.2	30.2	36.6	33.7	45.8	42.6	43.9	47.0	45.3	41.0
Total State	22.4	15.4	17.9	25.0	33.4	24.3	37.8	29.6	33.4	41.8	41.8	32.5

*These Summer 1979 and Summer 1980 figures show Civil Actions which were pending longer than 15 months. This reflects the current standard for Civil Actions. This breakdown is not available for pre-1979 figures.

*Source: Standard and Goals Summer Inventory of Pending Civil Actions in Supreme Court: 1975, 1976, 1977, 1978, 1979 and 1980 (excludes uncontested matrimonials).

Chapter 3

Court Operations

The operations of each of the 10 categories of courts described in Chapter 1 are discussed statistically in this chapter of the report. Operating information for the Appellate Courts, the Court of Claims, and the Surrogate's Courts for 1980 is presented on a courtwide basis. Court operation with respect to criminal proceedings, civil actions, and proceedings in the Family Court are discussed as separate topics.

3.1 The Court of Appeals

As noted in Chapter 1, the Court of Appeals is the highest court of the State. In 1980, 653 records on appeal were filed in the Court of Appeals, as shown in Table 7. During this period, 2,024 appeals and motions were decided. The Court also heard oral arguments in 646 cases and decided 1,707 applications for leave to appeal.

Of the 648 appeals decided, 476 involved civil matters and 172 were criminal cases, as shown in Table 8. The basis of jurisdiction in the Court of Appeals in 323 (68 percent) of the civil appeals disposed of was a reversal, modification, or dissent in the Appellate Divisions. One hundred seventeen (25 percent) of the civil appeals were heard by permission of either the Appellate Divisions or the Court of Appeals.

In 476 civil appeals disposed of, 305 (64 percent) judgments or orders were affirmed, 120 (25 percent) reversed, 35 (7 percent) modified, and 16 (3 percent) dismissed. Among the 172 criminal appeals disposed of, 108 (63 percent) judgments were affirmed, 55 (32 percent) reversed, and 4 (2 percent) modified, as shown in Table 8.

In deciding the 648 appeals, judges of the Court of Appeals wrote 592 opinions, as shown in Table 9. These consisted of 471 opinions of the Court, 22 concurring opinions and 99 dissenting opinions.

3.2 Appellate Divisions of the Supreme Court

The Appellate Divisions provide the first level of appeal from superior trial courts in addition to performing the other functions mentioned in Chapter 1. In 1980, 8,630 records on appeal were filed in the four Appellate Divisions, as shown in Table 10. There were 9,341 dispositions of judgments or orders appealed from, and the Appellate Divisions heard 4,737 oral arguments.

Of the 9,341 dispositions, 6,269 (67 percent) were affirmances, 772 (8 percent) were modifications, 1,500 (16 percent) were reversals without a new trial, and 157 (2 percent) were orders of new trials, as shown in Table 11.

In disposing of the 9,341 judgments or orders appealed from, the four Appellate Divisions wrote 493 full opinions, 78 *per curiam* opinions and 4,452 memorandum opinions, as shown in Table 12.

3.3 Appellate Terms of the Supreme Court

The Appellate Terms of the Supreme Court received 2,187 appeals and disposed of 1,574 in 1980, as shown in Table 13. The First and Second Departments together rendered 1,088 decisions, filed 1,018 *per curiam* opinions and wrote 49 memoranda (not filed). 3,997 motions were heard or submitted.

3.4 Criminal Proceedings

Trial jurisdiction in criminal proceedings is vested in different categories of courts, depending on the type of proceeding. The volume and the nature of the criminal proceeding in each category is discussed below.

3.4.1 The Supreme Court Within the City of New York

Table 14 presents a summary of the 1980 activities of the Supreme Court in New York City. The entries (except for items 1 and 9 through 12) are in terms of defendant-indictments. As such, each defendant is considered separately for each indictment with which he or she is charged. For example, if two indictments apply to the same defendant, each is counted separately, and two dispositions are recorded; if one indictment applies to two defendants, the action concerning each defendant is counted, and two dispositions are recorded. In 1980, a total of 19,602 defendant-indictments and superior court informations were filed in Supreme Court in New York City. During the previous 12-month period, 16,454 were filed.

Dispositions in 1980 totaled 18,628. Table 15 shows the number and percent of defendant-indictments disposed of by nature of disposition for each county in New York City. The proportion of dispositions by trial decreased from 13.2 percent in calendar year 1979 to 12.1 percent in 1980.

A total of 10,051 felony defendants were awaiting disposition of their cases in Supreme Court in New York City at the end of 1980. This compares with 8,918 pending at the end of 1979. A breakdown of these defendants by county is presented in Table 16.

3.4.2 The Supreme Court and County Courts Outside the City of New York

Although the Supreme Court and County Courts outside the City of New York possess civil and criminal jurisdiction, the caseload of the Supreme Court is largely civil and that of the County Courts is largely criminal. The defendant-indictments reported here were returned mainly by grand juries of the County Courts and all other criminal proceedings occurred principally in the County Courts.

There were 15,424 defendant-indictments and superior court informations filed outside of New York City in 1980. Table 18 presents a summary of defendant-indictments, arraignments, dispositions, and sentences for this period by county and district.

Table 19 shows the number and percent of defendant-indictments disposed of by nature of disposition in 1980 and comparable 1979 figures. There were 16,338 dispositions in 1980. The table shows that 13.7 percent of dispositions were by dismissal, 7.7 percent by trial, and 78.6 percent by plea.

As reported by local detention facilities, 1,225 detainees were awaiting action in Supreme Court and County Courts outside the City of New York at the end of December 31, 1980. Of these, 20 had been detained over one year. This compares with 966 detainees awaiting action in the same courts at the end of 1979 — 14 for over one year. Table 20 shows the number of defendants detained by judicial district.

3.4.3 The Criminal Court of the City of New York

The Criminal Court of the City of New York has jurisdiction over misdemeanors and lesser criminal offenses. It is also the arraignment court for felonies. While it has an authorized strength of 98 judges, the court is operating with approximately two thirds of that number, reflecting the assignment of judges to the Supreme Court.

Table 21 summarizes the court's activities in arrest cases for 1980. The total number of filings during 1980 was 182,968, compared with 203,367 filings in 1979, which is a decrease of 10 percent.

There were 178,333 cases disposed of in 1980, compared with 200,456 dispositions in 1979, which is a decrease of 11 percent. Table 22 presents a listing of dispositions by number and percent by county for these two years.

According to the New York City Department of Correction, 1,375 defendants were detained while awaiting action in Criminal Court of the City of New York at the end of 1980. Table 23 lists the number of detainees at the end of 1979 and 1980 by stage of processing.

Table 24 shows the breakdown of 432,897 summons cases filed in 1980 and lists them with the 1979 figures. Table 25 lists the fines collected in 1979 and 1980 in both arrest and summons cases.

3.4.4 The District Courts and the Courts in Cities Outside the City of New York

There were 144,681 criminal and quasi-criminal cases (defendants) disposed of in the District Courts and the courts in cities outside the City of New York in 1980. 47 percent of these dispositions occurred in the 10th district in which the two District Courts are located. Table 26 lists arraignments, dispositions by stage and by district and region.

During 1980, there were 428,894 traffic cases disposed of in the District Courts and the courts in cities outside the City of New York. Slightly over 59 percent of these dispositions occurred in the 10th district in which the two District Courts are located. Table 27 lists traffic dispositions by stage and by district.

3.5 Civil Actions and Proceedings

3.5.1 Supreme Court

In the fall of 1979, Chief Judge Cooke announced the plan to speed civil case processing in Supreme Court. This plan had three major thrusts to eliminate civil calendar delay in 11 urban counties of the State (New York, Bronx, Kings, Queens, Richmond, Erie, Monroe, Onondaga, Nassau, Suffolk and Westchester Counties).

The first aspect was the transfer of 242 superior court judges into the 11 target counties creating 396 additional judge terms to hear civil cases in 1980. Other superior court judges were transferred into the home counties of the transferred jurists to hear calendars there.

The second aspect of the plan was to bring about a significantly increased bench time for all judges in the State.

The third aspect of the plan was to expand the arbitration program from the four previously established counties to an additional 22 counties (see Chapter 4).

In 1980 a total of 64,212 civil cases were received in Supreme Court statewide (excluding uncontested matrimonials) while 77,957 cases were disposed of.

Table 29 lists the number of actions received by type of action in each county, district and region of the state. This is a 2.4 percent increase of 1979.

Table 30 lists the 1980 dispositions by type of action in each county, district and region of the state. The 77,957 dispositions in 1980 is an increase of 26.7 percent over 1979. In addition, there were 52,141 uncontested matrimonial cases disposed of statewide: 23,083 cases in New York City and 29,058 cases upstate.

Table 31 lists actions disposed of by stage and nature and by county and region. Statewide figures (excluding unconstested matrimonials) indicate that of the 77,957 cases disposed of, 73 percent were before trial, 9 percent disposed of during trial and 18 percent disposed of after proof was completed. After substracting from the total outflow of 77,957 cases those cases disposed of by transfer and the cases marked off or stricken from the calendar, the 1980 net dispositions increased 18.7 percent statewide over 1979 figures. Of these net dispositions 64.6 percent were disposed of before trial, 12.2 percent during trial and 23.2 percent after proof completed. This is an increase of 16.9 percent, 74.0 percent and 5.5 percent respectively over comparable 1979 statewide figures.

Table 32 lists the actions received, disposed, ending pending, change in pending and projected average age by county, district and region. The projected average age is stated in months. The statewide average for the projected average age of a civil action from the filing of a trial note of issue (non-matrimonial) in Supreme Court through disposition of that note is 8 months, down 3 months from 1979. By county this figure varies widely from one month in Lewis County to 13 months in Franklin and Saratoga Counties.

3.5.2 County Courts

While the bulk of civil actions take place in Supreme Court, there are civil terms in the County Courts. There are no County Courts in New York City. (See Figure 6.)

Table 33 lists the number of actions received by type of action in each county, district and region. 85 percent of the filings are in the 9th and 10th districts, a significant increase from 77 percent in 1979.

Table 34 lists the 1980 dispositions by type of action in each county, district and region. 79 percent of the dispositions are in the 9th and 10th districts as compared to 75 percent in 1979. Table 35 shows the actions disposed of by stage and nature.

Table 36 shows that the projected average age of a case at disposition in the County Courts is 5 months. Among individual counties the projected average age varies widely. To some degree this wide variation is due to the small number of cases involved in the calculation for a particular county.

3.5.3 The Civil Court of the City of New York

3.5.3.1 Trends

The volume of actions received and actions disposed of in the Civil Court of the City of New York continued to decrease in 1980. The number of pending actions also decreased (by 31.6%) as shown in Figure 7.

The trend of an increasing number of summary proceedings received and disposed of over the previous 10 years was reversed in 1977, but that reversal was short lived. Since 1978, the trend of an increasing number of summary proceedings received and disposed of was continued. (See Figure 8.)

Although the number of summary proceedings pending appears to have increased in 1975 through 1977 (Fig. 8), it should be noted that through the judicial year 1973-74, the pending figure was measured as of June 30, while for 1975 through 1978, the measuring date was December 31. Court caseloads of all types are usually at their lowest in June, just before the summer vacation period. During 1975, the pending caseload of summary proceedings actually decreased from 4,042 on January 1 to 3,125 on December 31. Thereafter, the number of pending cases increased, so that 5,160 cases on December 31, 1977, represented an increase of 1,030 cases, or 25 percent. For the first time since the inception of calendar year reporting, the caseload of pending summary proceedings decreased in 1978, but only for that year. There were 5,210 cases pending at the end of 1980, an increase of 545 cases of 11.7 percent over 1979.

3.5.3.2 Actions and Special Proceedings

3.5.3.2.1 Actions and Special Proceedings Received

In 1980, the number of actions and special proceedings received decreased in all counties ranging from a low of almost 7 percent in Richmond to a high of about 31 percent in New York. The citywide total of 41,738 represented an overall decrease of 12,928 or 24 percent over 1979.

About 11.8 percent of these actions were received in the Housing Part, as shown in Tables 38 and 40.

3.5.3.2.2 Actions and Special Proceedings Disposed of

There were 48,848 actions disposed of in 1980, down from 56,138 in 1979. This is a decrease of 13 percent, or 7,290 dispositions, from 1979. All counties registered decreases, from 2.8 percent in Kings to a high of 21.8 percent in New York. The figures for cases disposed are set forth in Tables 38, 39 and 40.

3.5.3.2.3 Projected Average Age of Action at Disposition

Table 40 shows a projected average age of 4.1 months citywide, a decrease of 0.3 month from 1979.

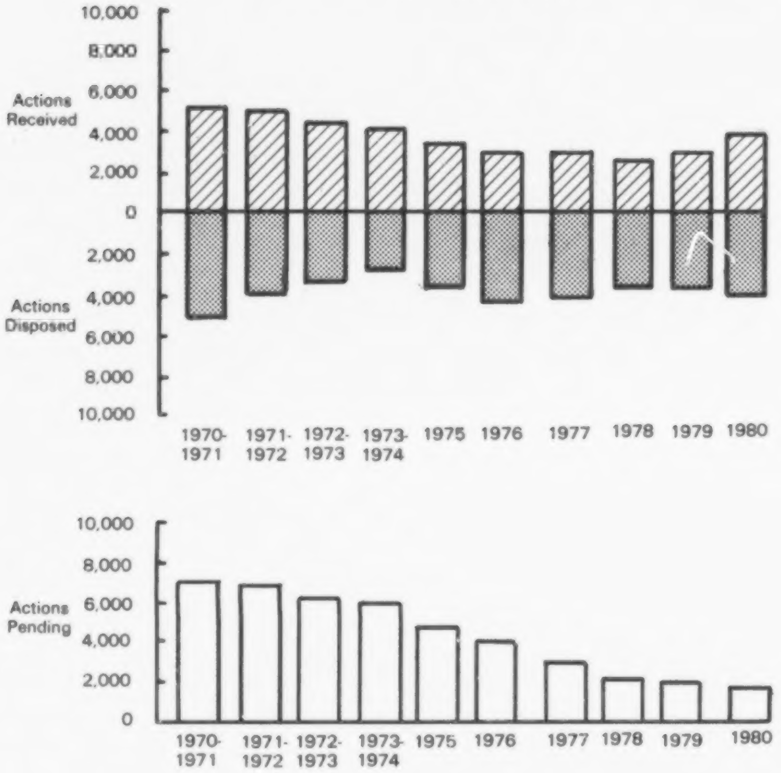
3.5.3.2.4 Pending Caseload

As shown in Table 40, the pending caseload decreased by 6,391 actions in 1980. The increase in the pending caseload of 20.9 percent in Richmond could not offset the decreases ranging from a low of 13 percent in the Bronx to a high of 62 percent in Queens. The result was a net decrease of 31.6 percent citywide.

Figure 6

THE COUNTY COURTS
OUTSIDE THE CITY OF NEW YORK – CIVIL TERMS
Actions Received, Actions Disposed, Actions Pending

*Last Ten Years**



*The bars for 1975 through 1980 are based on the calendar year; the bars for the earlier years are based on judicial years beginning on July 1 of one year and ending on June 30 of the following year.

3.5.3.3 Summary Proceedings

Figure 8 depicts the revival of the upward trend of the previous years in summary proceedings received and disposed. The decrease in 1977 was only for the one year. In 1978 the figure again increased and has continued to do so.

3.5.3.3.1 Summary Proceedings Received

Most of these proceedings are landlord and tenant proceedings for nonpayment of rent, 96.4 percent of which were of the residential type. The Office of Court Administration, for statistical purposes, counts a summary proceeding as received only if an answer is filed, since it is placed on a calendar only after such a filing.

In 1980, there were 414,030 petitions filed; 25 percent of the grand total were received for placement on a calendar and 40 percent resulted in the entry of a default judgment by the clerk, followed by the issuance of a warrant of possession.

The numbers shown in Tables 41 and 44 refer only to those petitions which were placed on a calendar. 107,239 summary proceedings were received in 1980. This is an increase of 20,382 or 23.5 percent over the comparable figure for 1979.

3.5.3.3.2 Summary Proceedings Disposed of

As shown in Table 42, a total of 106,046 summary proceedings were disposed of in 1980, up 20,787 or 24 percent, from 1979. Table 43 shows dispositions by stage and nature, while Table 42 shows the breakdown of filings and dispositions by jury and non-jury.

3.5.3.3.3 Pending Caseload

During 1980, the pending caseload of summary proceedings increased by 545 proceedings, or 12 percent. This is reflected in Table 44.

3.5.3.4 Special Terms

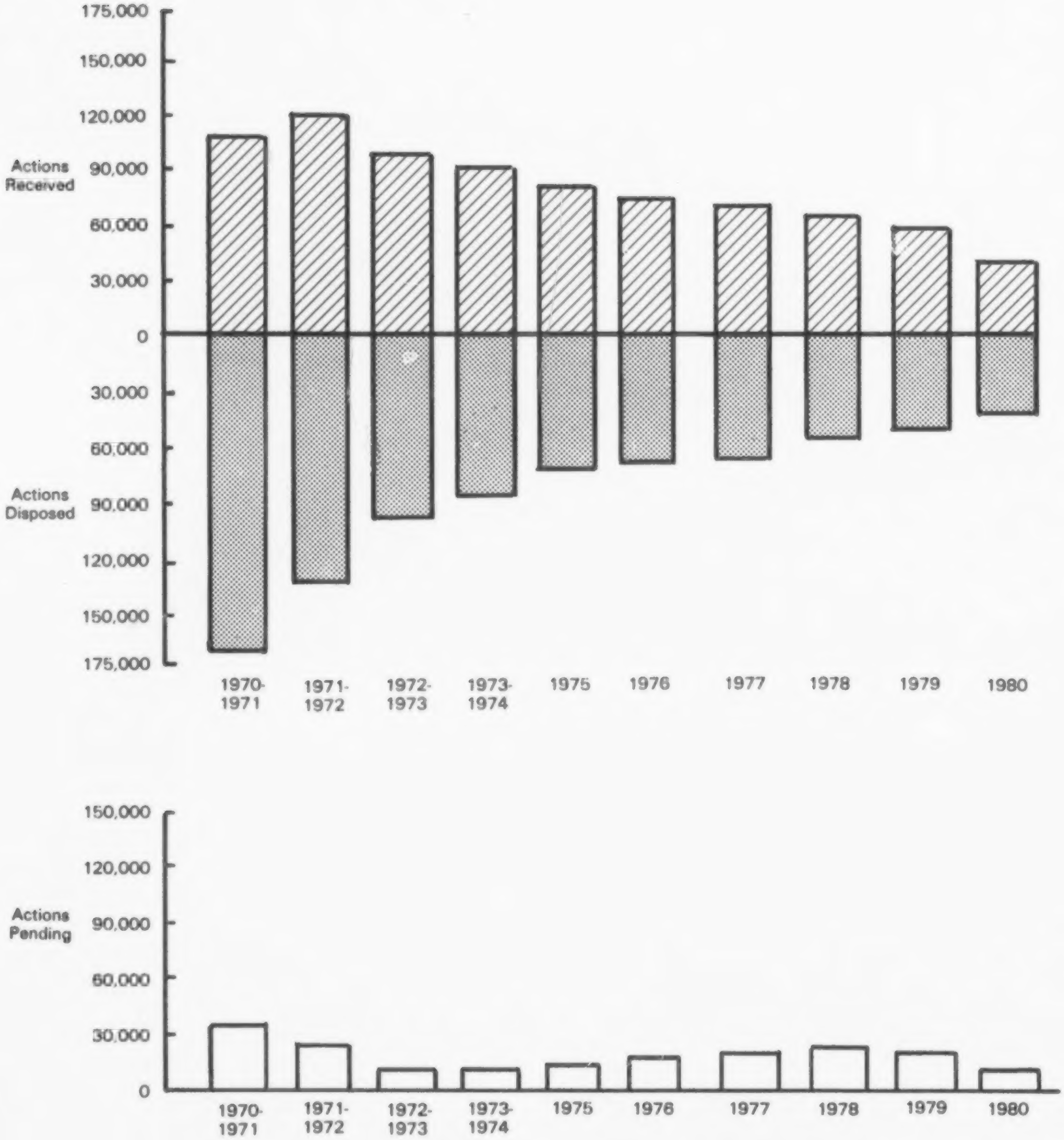
3.5.3.4.1 Special Term Part I

Special Term Part I of the civil Court of the City of

Figure 7

THE CIVIL COURT OF THE CITY OF NEW YORK
Actions Received, Actions Disposed, Actions Pending[1]

*Last Ten Years**



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[1] Excludes Arbitration Program data for the Bronx for all years and for Kings, New York and Queens which entered the program in 1980. See Chapter 4 for data on Arbitration.

*The bars for 1975, 1976, 1977, 1978, 1979 and 1980 are based on the calendar year; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

New York deals with contested motions. In 1980, these motions increased by 1,219 or 2.2 percent as compared with 1979. The greatest numerical increase occurred in the number of motions granted, 2,947 or 12.6 percent, followed by 846 or 18.7 percent of motions withdrawn or marked off, and 220 or 3.3 percent motions denied. Motions granted, the only category of contested motions registering a decrease in 1980 from 1979, went down by 2,794 or 14.3 percent. This is reflected in Table 45.

3.5.3.4.2 Special Term Part II

Special Term Part II of the Civil Court of the City of New York deals with ex parte orders, as shown in Table 46. The 157,176 *ex parte* orders reported in 1980 were an increase of 10,424, or 7 percent over 1979.

3.6 The Court of Claims

In 1980, the Court of Claims had 17 authorized judges. 1,274 claims were filed and 1,345 were disposed. 1,141 of the dispositions were by dismissal and 204 resulted in awards. In addition to the 1,345 claims disposed of, 1,640 motions were decided by the court. The pending caseload at the end of 1980 was 2,826, a decrease of 72 or approximately 2 percent from the 2,898 cases pending at the end of 1979. Figure 9 shows the volumes of cases received, cases disposed of, and cases pending in the Court of Claims for the last 10 years.

3.7 The Surrogate's Courts

Figure 10 indicates that there has been little increase or decrease in the business of the Surrogate's Courts during the last seven years. There were 41,050 petitions to probate wills in the 1980 calendar year, an increase of 1,030 over 1979; 13,042 letters of administration were granted, an increase of 231 from 1979; orders of adoption decreased by 160, with 2,972 granted in 1980; and there were 11,466 voluntary accountings filed, an increase of 914 over the 1979 calendar year. Additional details of the operations of the Surrogate's Courts are given in Table 48.

3.8 Family Court

3.8.1 Overview of the Work of the Court

Family Courts in New York State have jurisdiction over matters involving children and families. These include primarily cases of juvenile delinquency, child protection, foster care, minors in need of supervision, adoptions, support of dependent relatives, paternity matters and family offenses.

The statistical system for measuring caseload activity in the Family Court, dating from the Court's establishment on September 1, 1962, remained in effect through the end of 1974, at which time it was substantially revised. Although the revisions allow for more complete and realistic measurement of activity than before, the data cannot always be related to data collected prior to the revision in 1975. The data collected from the new statistical system is presented in Table 49. This table presents the activity of Family Court in terms of "additions" and "deductions" to the actively pending caseload, by type of proceeding. The column titled "Petitions Added During Period" includes petitions filed, transferred in and referred from other courts, as well as any warrant returned during the year. In like manner, the column titled "Petitions Deducted During Period" refers to all types of court dispositions, including petitions transferred out and proceedings in which warrants were issued.

The Child Protective, Juvenile Delinquency, PINS and Family Offense disposition statistics (Tables 50 through 86) can be related to the material presented in all previous annual reports.

3.8.2 Child Protective Proceedings Involving Child Abuse

There were 5,379 original child protective petitions disposed of in New York State in 1980.

As shown in Table 50, in 9 percent of the original child protective cases disposed of during 1980, there was a finding that the child was abused (but not neglected). In 54 percent of the cases, there was a finding that the child was neglected (but not abused). In 1 percent of the cases, the child was found to be both abused and neglected, while in 4 percent of the cases the child was found to be neither abused nor neglected.

Although the number of dispositions for child abuse was small, there is great interest in these most serious cases. Hence, the Legislature has directed the Office of Court Administration to collect and publish the variety of information on child abuse discussed below.

3.8.2.1 Disposition of Child Abuse Cases

1,341 original child protective proceedings involving child abuse were disposed of during 1980. A total of 623 or 47 percent of these petitions were disposed of in New York City; 718 or 53 percent of the petitions were disposed of in courts outside New York City.

3.8.2.2 Age of Child

As shown in Tables 51 and 52, statistics indicate that a higher percentage of young girls were the subject of original abuse cases disposed of during 1980 than young boys. This trend was also true in the past. 45 percent of the children in child abuse cases in 1980 were under eight years of age.

3.8.2.3 Reasons for Petitions

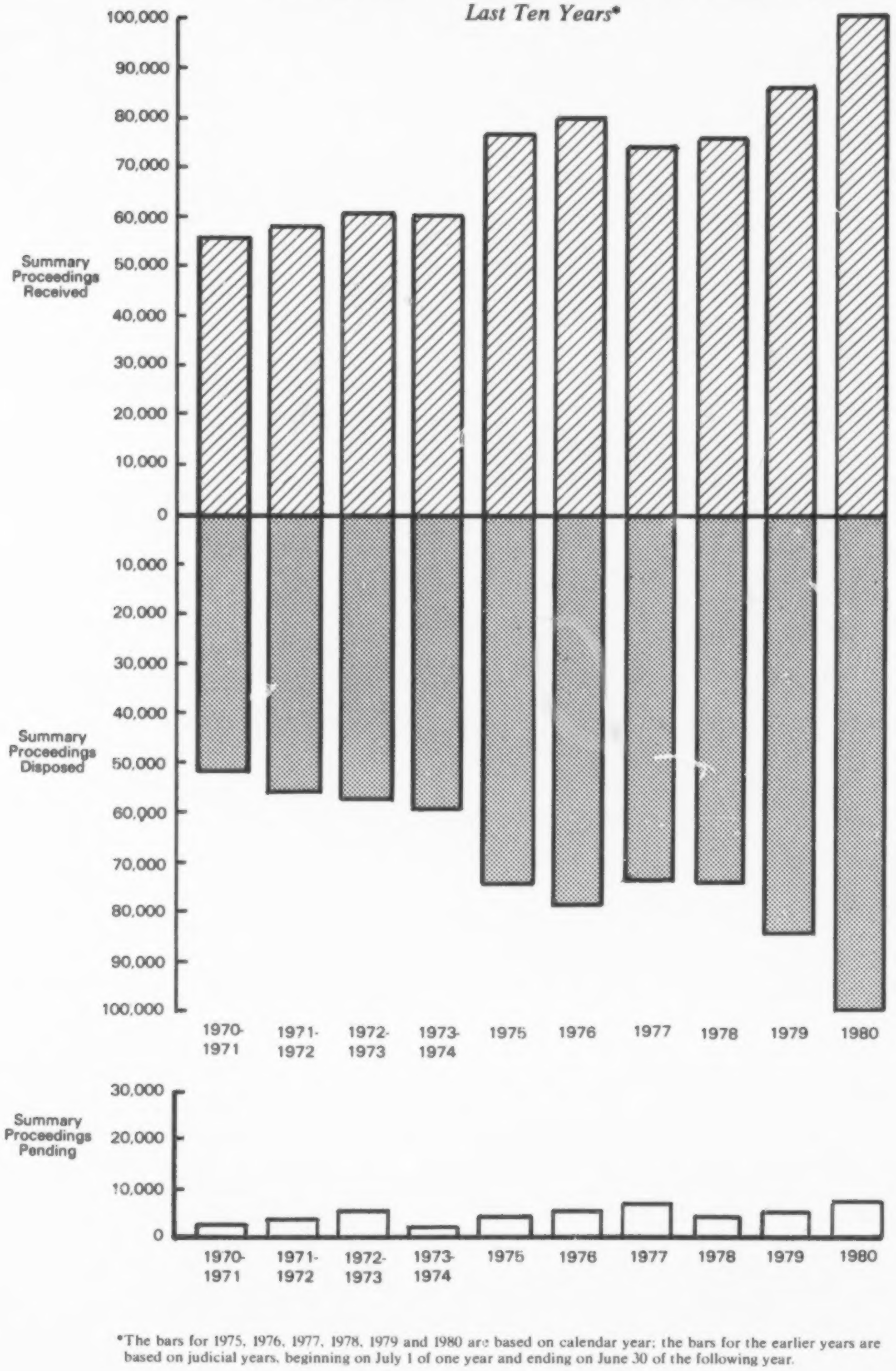
Physical abuse accounted for 50 percent of the reasons for child abuse petitions in New York City and 27 percent of the reasons for petitions in counties outside

Figure 8

THE CIVIL COURT OF THE CITY OF NEW YORK

Summary Proceedings — Received, Disposed and Pending

*Last Ten Years**



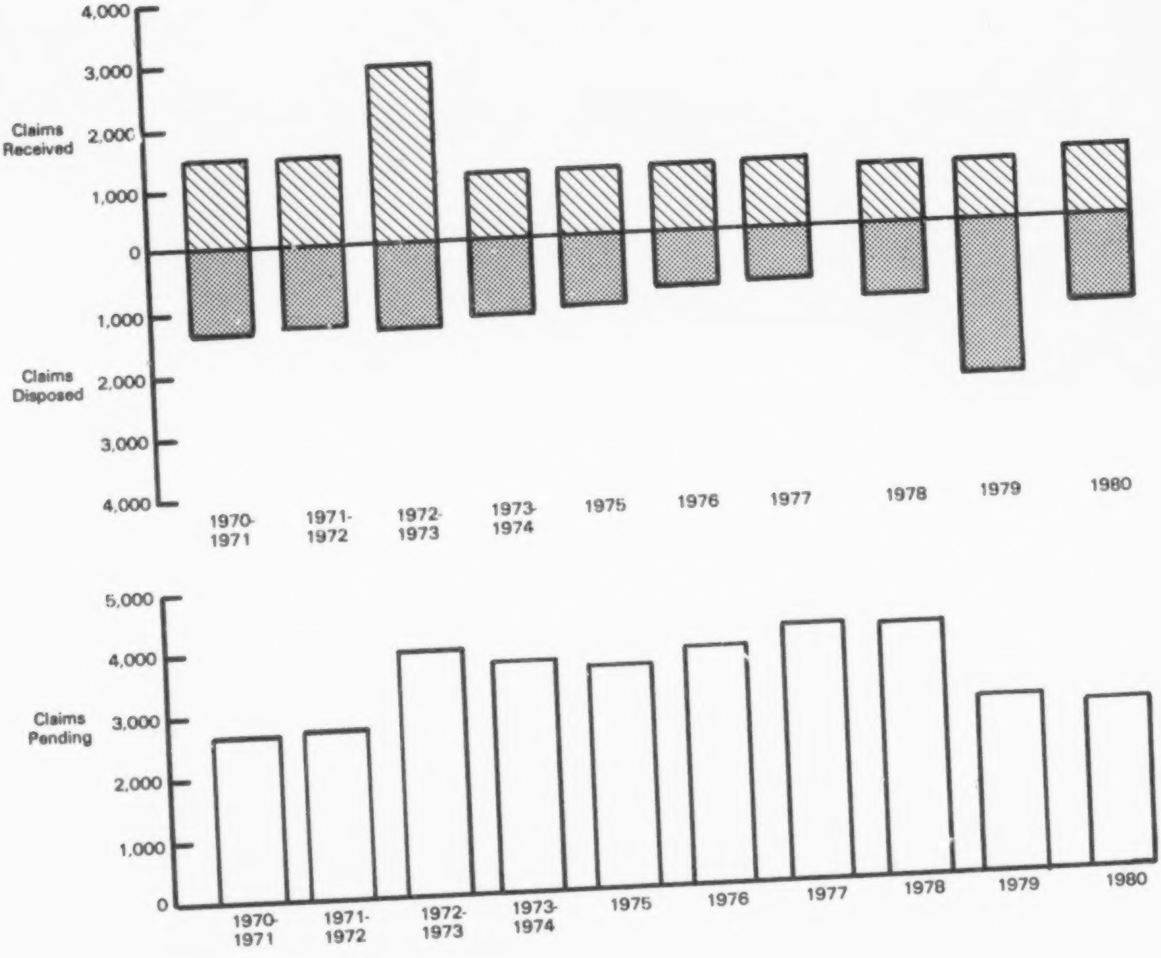
*The bars for 1975, 1976, 1977, 1978, 1979 and 1980 are based on calendar year; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

Figure 9

THE COURT OF CLAIMS

Claims Received, Claims Disposed, Claims Pending[1]

*Last Ten Years**



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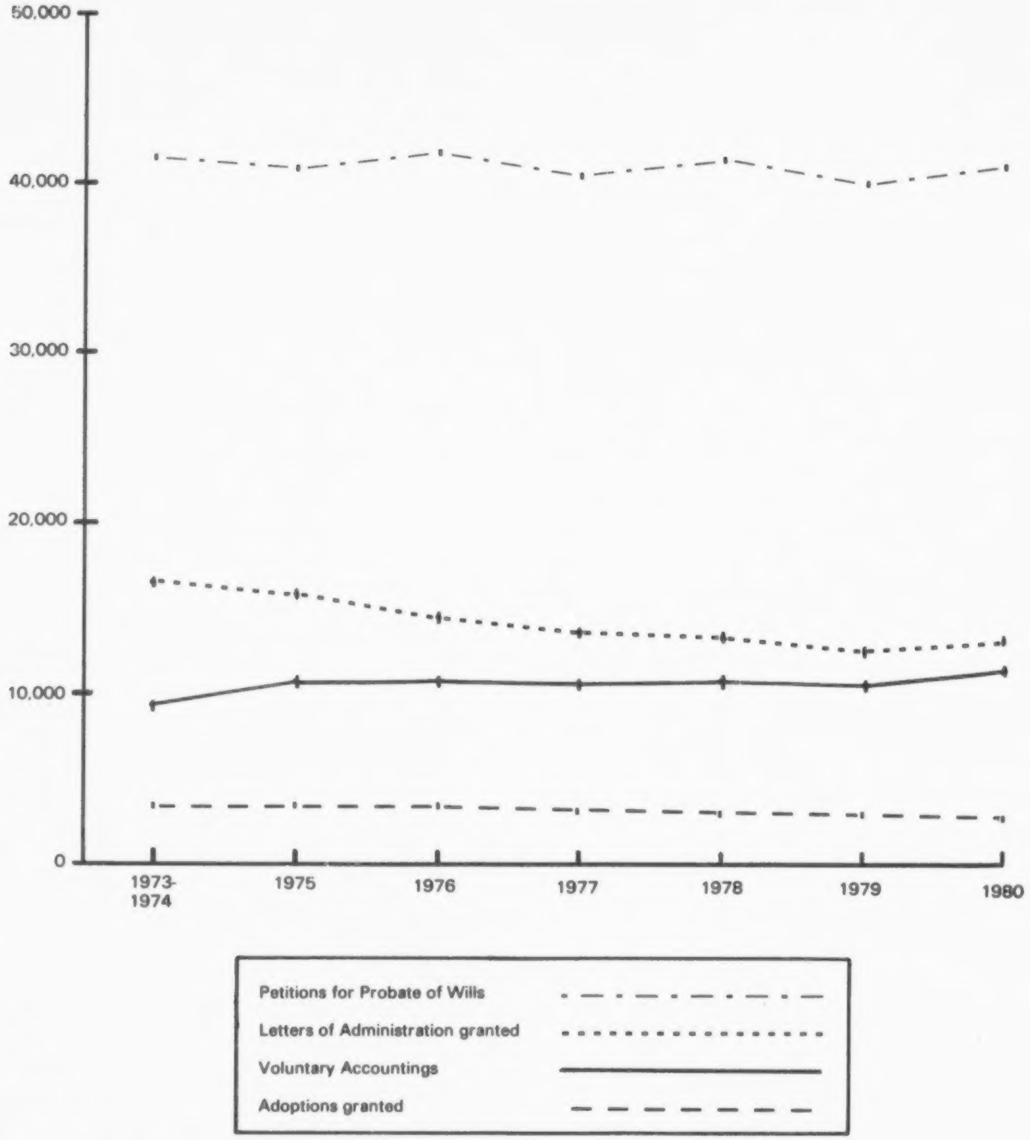
[1] Includes newly filed claims; claims held on calendar in which judgments have been entered after order of severance; and claims restored by order of the Court of Appeals, or by order of the Appellate Divisions or by order of the Court of Claims.

*The bars for 1975 through 1980 are based on the calendar years; the bars for the earlier years are based on judicial years, beginning on July 1 of one year and ending on June 30 of the following year.

Figure 10
THE SURROGATE'S COURT
Selected Items
*Last Seven Years**



*The diagrams for 1975, 1976, 1977, 1978, 1979 and 1980 are based on the calendar years; the diagram for 1973-1974 is based on a judicial year beginning on July 1, 1973 and ending on June 30, 1974.

New York City, as shown in Tables 53 and 54. The second most common reason for child abuse petitions statewide was sex offense against child: However, this accounted for only 15 percent of the reasons for child abuse petitions in New York City, while in counties outside New York City, sex offenses against child accounted for 62 percent of the reasons for petition.

3.8.2.4 Petitioners

As reported in previous years, the major sources of original petitions in child protective proceedings disposed of in 1980 were public social services agencies, which brought 93 percent of all petitions disposed of in this period. Public social services agencies were petitioners in a higher percentage of cases in counties outside New York City than in New York City (97% to 88%). See Tables 55 and 56.

3.8.2.5 Temporary Removal

Of the 1,341 children who were subjects of original child protective petitions involving child abuse disposed of during 1980, 587 or 46 percent were not removed from their homes, as shown in Tables 57 and 58 and 754 were. 26 or 2 percent were removed (only) before the filing of a petition because of emergency circumstances. 565 children, or 39 percent were removed from their homes (only) after the filing of a petition, and 163 or 13 percent both before and after.

On a statewide basis, temporary removal of a child after petition was terminated within 30 days in 23 percent of such cases disposed of during 1980. In 48 percent of the cases temporary removal ended within 90 days. The duration of temporary removal was similar for boys and for girls.

As shown in Table 57 and 58 there was little variation in the duration of temporary removal between New York City and the other counties of the State for original child protective proceedings involving child abuse disposed of during 1980. 23 percent of temporary removals after petition were terminated within 30 days in counties outside New York City, compared with 23 percent in New York City.

Some of the reasons for the durations of temporary removal may be found in the statistics on the times between the filing of a petition and the initial fact-finding hearing and between the initial fact-finding hearing and the dispositional hearing, as discussed below.

3.8.2.6 Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

A fact-finding hearing occurred in about 83 percent of all child abuse cases disposed of in 1980, as shown in Tables 59 and 60. In New York City 75 percent of the cases had such a hearing, compared with 88 percent of the cases in counties outside New York City.

The fact-finding hearing was held within 30 days of the filing of a petition in 38 percent of the child abuse cases with a hearing. However, in New York City only about 19 percent of the cases had the fact-finding hearing within 30 days, as contrasted with 51 percent within 30 days in counties outside New York City.

In 1 percent of the cases with a hearing, the hearing was not held until more than one year after filing.

3.8.2.7 Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing

One reason for the delay in reaching a fact-finding hearing in 1980 was that 74 percent of all child abuse cases with a fact-finding hearing had at least one adjournment before the hearing, as shown in Tables 61 and 62. Seven percent had nine or more adjournments.

92 percent of all New York City cases had one or more adjournments, and 13 percent had nine or more adjournments. This contrasts with 68 percent of the cases in counties outside New York City with one or more adjournments and 5 percent with nine or more adjournments.

3.8.2.8 Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

28 percent of the cases of child abuse disposed of during 1980 had a delay of 30 days or less between the initial fact-finding and the dispositional hearings, as shown in Tables 63 and 64. However, only 22 percent of the child abuse cases in New York City experienced such delay, as compared with 39 percent of the cases in counties outside New York City.

3.8.2.9 Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing

Again, adjournments are one reason for delay in reaching a disposition after a fact-finding hearing has been held, as shown in Tables 65 and 66. 66 percent of all child abuse cases disposed of during 1980 had one or more adjournments between the initial fact-finding and dispositional hearings.

3.8.2.10 Findings

Of the 1,341 original child protective proceedings involving child abuse disposed of in 1980, 1,052 started with allegations of abuse only, as shown in Table 67. Of these petitions alleging abuse, 42 percent resulted in a finding of abuse, 29 percent in a finding of neglect, 3 percent in a finding of both abuse and neglect, and 27 percent in a finding of neither. 51 percent of these findings were based on the establishment of facts sufficient to sustain the petition, and 49 percent were based on the consent of all parties.

233 of the 1,341 original child protective petitions involving child abuse disposed of during 1980 started with allegations of both abuse and neglect, as shown in Table 68. In 12 percent of these cases, the child was found to be both abused and neglected, and in 11 percent the child was found to be abused. In 47 percent of these cases the child was found to be neglected, and in 23 percent the child was found to be neither abused nor neglected. 56 percent of the findings cited above were based on the establishment of facts sufficient to sustain the petition, and 44 percent were based on the consent of all parties.

A total of 4,094 petitions alleging neglect resulted in only 35 findings of child abuse and 21 findings of both abuse and neglect, as shown in Table 69.

3.8.2.11 Disposition

34 percent of the 1,341 child protective petitions involving child abuse were either withdrawn, dismissed, or suspended during 1980, as shown in Tables 70 and 71. 37 percent resulted in placement during this time period. One abuse case resulted in a disposition of probation. 9 percent resulted in an order of protection.

3.8.2.12 Age of Disposed of Cases

An indication of the age of child abuse cases disposed of during 1980 is given in Table 72. It will be noted that 43 percent were filed before 1980. In New York City, 28 percent were filed before 1980, compared with 42 percent in counties outside New York City.

3.8.2.13 Use of Child Abuse Part

Of the 1,285 cases in which child abuse was alleged in the original petition, 56 percent were tried in a special child abuse part in a Family Court, as shown in Table 73.

3.8.3 Persons-In-Need-Of-Supervision Proceedings

During 1980, 9,377 original proceedings involving persons in need of supervision were disposed of in the Family Courts. Of those dispositions, 2,770 were made in New York City and 6,607 in other counties of the State.

3.8.3.1 Detention

As shown in Tables 74 and 75, 16 percent of the alleged persons in need of supervision were detained during Family Court original proceedings disposed of during 1980. 58 respondents in supervision proceedings, or less than one percent were detained (only) before the filing of a petition. About 17 percent (1,565) of all respondents were detained (only) after the filing of a supervision petition. 30 were detained both before and after the filing of the petition.

On a statewide basis, post-petition detention in supervision cases was terminated within 30 days for 51 percent of those detained, as shown in Tables 74 and 75. It was terminated within 90 days for 87 percent of the detainees. The percent of respondents from counties outside New York City whose detention was terminated in 30 days or less was the same as the percentage of respondents from New York City whose detention was terminated in 30 days or less.

3.8.3.2 Adjudication and Disposition

In 5,291 or 56 percent of the original supervision petitions disposed of during 1980, there was no adjudication that the person was in need of supervision, as shown in Tables 76 and 77. In 402, or 4 percent of the cases an adjudication was made, but judgment was suspended or the respondent was discharged with a warning. 2,493 or 27 percent of the supervision proceedings culminated in an order of probation. Proceedings that resulted in some form of placement occurred in 1,190 or 13 percent of the cases.

A slightly higher percentage of cases involving girls resulted in no adjudication that the person was in need of supervision than cases involving boys. A higher percentage of cases in which the judgment was suspended or the respondent discharged with a warning occurred in counties outside the City of New York (6%) than in New York City (.2%). Probation also was used in a greater percentage of cases in counties outside the City of New York (36%) than in New York City (5%).

3.8.4 Juvenile Delinquency Proceedings

During 1980, 17,340 original juvenile delinquency cases were disposed of in the Family Courts. As in previous years, a much higher percentage of the delinquency proceedings involved boys (89%) than girls (11%).

3.8.4.1 Reasons for Petition

The distribution of the reasons reported for delinquency petitions during 1980, shown in Table 78, was substantially the same as in previous years. Allegations of robbery were more frequent, however, in New York City than outside New York City, and allegations of burglary were the basis of a greater percentage of delinquency petitions in counties outside New York City than in the City.

3.8.4.2 Detention

As shown in Tables 79 and 80, 180 (or 1%) of the alleged delinquents were detained (only) before the filing of a petition in original cases disposed of during 1980.

Sixteen percent (2,783) of the children who were respondents in original delinquency proceedings disposed of during 1980 were detained (only) after the filing of a petition, while another 111 (1%) were detained both before and after.

In 68 percent of the post-petition detentions, the detention was terminated within 30 days as shown in Tables 79 and 80. Detention was terminated within 90 days in 93 percent of the cases.

3.8.4.3 Adjudication and Disposition

In 11,781 or 68 percent of the original juvenile delinquency petitions disposed of during 1980, there was no adjudication of delinquency, as shown in Tables 81 and 82. In 639 or 4 percent of the cases an adjudication was made, but judgment was suspended or the respondent was discharged with a warning. Nineteen percent, or 3,319 of the proceedings culminated in an order of probation. Proceedings that resulted in some form of placement occurred in 1,901, or 11 percent of the cases. 3 percnet, or 424 cases, resulted in a discharge of the delinquency petition to another petition or in a discharge to a mental hygiene institution or school for defectives.

A higher percentage of cases involving girls (71%) than boys (64%) resulted in no adjudication of delinquency. A slightly higher percentage of cases in which the judgment was suspended or the respondent discharged with a warning occurred in counties outside the City of New York (5%) than in New York City (2%). Probation also was used in a greater percentage of cases in counties outside the City of New York (23%) than in New York City (14%).

3.8.5 Family Offense Proceedings

Chapter 449 of the Laws of 1977, effective September 1, 1977, prohibited the filing of a subsequent Family Offense proceeding in an alternative court for the same offense once a choice of forum had been made by the petitioner/complainant.

In 1980, a total of 17,167 family offenses petitions were disposed of in the Family Courts in New York State.

3.8.5.1 Allegations of Petitions

The distribution of allegations reported for family offense petitions disposed of in Family Courts in 1980 is shown in Table 83. Allegations of assault (44%) and attempted assault (2%) accounted for 44 percent of all family offense allegations during the reporting period. Harassment was alleged in 27 percent and disorderly conduct in 18 percent of the petitions. The percentage of petitions alleging assault was slightly lower in counties outside of New York City (43% to 45%).

3.8.5.2 Petitioners

Of the total family offense petitions disposed of in Family Court in 1980, wives were petitions in 77 percent of the cases as shown in Table 84. Other sources of petitions were husbands (6%) and mothers (8%). Outside of New York City wives were petitioners in 78 percent of the cases and in 76 percent of the cases within the city.

3.8.5.3 Respondents

Statewide, husbands were respondents in 77 percent of the Family Court cases, a son or daughter in 11 percent and a wife in 6 percent as shown in Table 84. In counties outside of New York City husbands were respondents in 77 percent of the cases while in New York City there were respondents in 76 percent of the cases.

3.8.5.4 Dispositions.

Of the 17,167 petitions disposed of in Family Courts in 1980, 59 percent were either dismissed (39%) or withdrawn (18%), while 39 percent resulted in the issuance of a final Order of Protection, as shown in Table 85.

Table 7
THE COURT OF APPEALS
Matters Submitted and Decided

December 31, 1979 through December 28, 1980

Applications Decided (C.P.L. 460.20 (3-b)[1])	1,707
Records on Appeal Filed	653
Motions Decided	1,376
Oral Arguments[2]	646
Appeals Decided	648

[1] Applications for leave to appeal in criminal cases; 116 of the 1,707 were granted. The total number of criminal applications assigned during the year 1980 was 1,852.

[2] Total includes appeals submitted.

Table 8

THE COURT OF APPEALS

Appeals Decided by Nature and Jurisdiction

December 31, 1979 through December 28, 1980

Civil Cases

Basis of Jurisdiction	Nature of Decision					Total
	Dismissal	Affirmance	Modification	Reversal	Other	
Reversal, modification, dissent in Appellate Division	8	230	17	68	0	323
Constitutional question	5	3	4	6	0	18
Stipulation for judgment absolute	0	0	0	1	0	1
Permission of Appellate Division	2	40	5	15	0	62
Permission of Court of Appeals	0	22	9	24	0	55
Other	1	10	0	6	0	17
Total	16	305	35	120	0	476

Criminal Cases

Basis of Jurisdiction	Nature of Decision					Total
	Dismissal	Affirmance	Modification	Reversal	Other	
Permission of Justice of Appellate Division	3	48	2	20	0	73
Permission of Judge of Court of Appeals	2	59	2	34	0	97
Other	0	1	0	1	0	2
Total	5	108	4	55	0	172

All Cases

Basis of Jurisdiction	Nature of Decision					Total
	Dismissal	Affirmance	Modification	Reversal	Other	
Reversal, modification, dissent in Appellate Division	8	230	17	68	0	323
Constitutional question	5	3	4	6	0	18
Stipulation for judgment absolute	0	0	0	1	0	1
Permission of Appellate Division or Justice thereof	5	88	7	35	0	135
Permission of Court of Appeals or Judge thereof	2	81	11	58	0	152
Other	1	11	0	7	0	19
Total	21	413	39	175	0	648

Table 9

THE COURT OF APPEALS
Written Opinions by Type and by Author

December 31, 1979 through December 28, 1980

Author	Type of Opinions Majority Opinions	Concurrences	Dissents	Total
Cooke	21	2	12	35
Jasen	21	2	16	39
Gabrielli	24	4	20	48
Jones	28	4	8	40
Wachtler	28	3	6	37
Fuchsberg	29	6	14	49
Meyer	25	1	23	49
Per Curiam	27	0	0	27
Memorandum	268	0	0	268
Total	471	22	99	592

Table 10

APPELLATE DIVISIONS OF THE SUPREME COURT
Matters Submitted and Decided and General Information on Proceedings by Judicial Department

Dec. 31, 1979 through Dec. 28, 1980

Department	Records on Appeal Filed	Motions Decided	Oral Argu-Ments	Dispositions of Judgments or Orders Appealed from[1]	Admissions To Bar Men	Women	Attorney Disciplinary Proceedings Charges Dismissed	Censures	Suspensions	Struck from Roll	Disbarments	Reinstatements
1st. Dept.	2,622	5,191	1,203	2,913	*1,152	613		0	4	6	7	9
2nd Dept.	3,148	8,040	1,634	3,502	1,409	570	3	5	2	7	6	8
3rd Dept.	1,678	2,305	913	1,706	492	127	6	2	12	1	0	4
4th Dept.	1,182	2,418	987	1,220	308	97	1	0	10	3	2	6
State Total	8,630	17,954	4,737	9,341	3,361	1,407	11	7	28	17	15	27

[1] Includes Articles 78 and original proceedings; also includes appeals dismissed or withdrawn before arguments or submission

*Does not include legal consultants of which there were 7.

Table 11

APPELLATE DIVISIONS OF THE SUPREME COURT
Dispositions of Judgments or Orders by Nature and by Judicial Department

Dec. 31, 1979 through Dec. 28, 1980

Department	Nature of Disposition						Total Disposition of Judgments or Orders Appealed from
	Dismissals	Affirmances	Modifications	New Trials	Reversals Not Including New Trials	Other	
1st Dept.	139	1,944	223	48	351	208	2,913
2nd Dept.	178	2,184	342	62	734	2	3,502
3rd Dept.	25	1,328	112	33	190	18	1,706
4th Dept.	53	813	95	14	225	20	1,220
Total State	395	6,269	772	157	1,500	248	9,341

Table 12

APPELLATE DIVISIONS OF THE SUPREME COURT
Opinions by Type and by Judicial Department

Dec. 31, 1979 through Dec. 28, 1980

Department	Type of Opinion[1]		
	Full Opinion	Per Curiams	Memo Opinion
1st Dept.	131	11	761
2nd Dept.	113	60	1,709
3rd Dept.	124	5	1,552
4th Dept.	125	2	430
Total State	493	78	4,452

[1] Concurring and dissenting opinions are not included.

Table 13

APPELLATE TERMS OF THE SUPREME COURT

Activity of the Court by Judicial Department

Dec. 31, 1979 through Dec. 28, 1980

Activity	First Department	Second Department	Total
1. Total Appeals received[1]	465	1,722	2,187
a. County Courts	0	27	27
b. The Civil Court of the City of New York	388	345	733
c. The Criminal Court of the City of New York	77	335	412
d. The District Courts	0	556	556
e. Courts in cities outside New York City	0	170	170
f. Town Courts & Village Courts	0	289	289
2. Motions heard or submitted	2,002	1,995	3,997
3. Total appeals disposed of	475	1,099	1,574
a. Discontinued	22	3	25
b. Dismissed on calendar call under Rule 3 or 8 (civil)	15	377	392
c. Dismissed on calendar call under C.P.L. 460.70 (criminal)	21	43	64
d. Remitted	4	1	5
e. Decided after argument or submission	413	675	1,088
4. Total decisions rendered	413	675	1,088
a. Dismissed, discontinued, withdrawn or remanded	14	22	36
b. Affirmed	200	340	540
c. Modified	48	66	114
d. Reversed	151	247	398
5. Opinions filed	23	—	23
6. Per curiam opinions	364	654	1,018
7. Memoranda written, not filed	49	—	49

[1] Notices of appeal dismissed on calendar call C.P.L. 460.70 (Criminal): 298 in First Department and 439 in the Second Department.

Table 14

THE SUPREME COURT WITHIN THE CITY OF NEW YORK — CRIMINAL TERMS

Activity of the Court by County

December 31, 1979 through December 28, 1980

Activity	New York	Bronx	Kings	Queens	Richmond	Total N.Y.C.
1. Days sat[1]	8,457	6,451	7,076	3,771	417	26,172
2. Indictments and superior court informations filed	6,421	4,244	4,934	3,635	368	19,602
3. Arraignments	4,883	3,799	4,722	3,229	349	16,982
4. Indictments dismissed by court[2]	1,097	637	761	594	100	3,189
5. Pleas of guilty to felony	4,754	2,588	3,202	1,681	264	12,489
6. Pleas of guilty to misdemeanor	252	60	158	158	55	683
7. Convictions	493	346	465	237	25	1,566
8. Acquittals	196	208	152	136	9	701
9. Disagreements	48	22	18	19	2	109
10. Trials (proof completed)	662	498	554	344	33	2,091
11. Defendants tried (proof completed)	737	574	639	397	39	2,386
12. Mistrials	60	32	56	46	1	195
13. Eligible youth sentenced as youthful offenders	379	339	405	346	55	1,524
14. Sentences imposed	4,383	2,335	2,708	1,560	261	11,247

NOTE: The entries in this table are based on the number of defendant-indictments involved, except for items 1 and 9 through 12. This table includes youthful offender proceedings to conform to the revised Criminal Procedure Law, effective September 1, 1971.

[1] Includes days sat by judges temporarily assigned to this Court.

[2] Includes, among others: indictments dismissed in cases initiated prior to the period covered by this table; those indictments dismissed against defendants sentenced on another indictment or disposed of by consolidation; those in which the defendants were civilly committed to the Commissioner of Mental Hygiene or to the Commissioner, Division of Substance Abuse Service; those indictments disposed of by trial order of dismissal; those indictments dismissed upon the filing of a superseding indictment; indictments adjourned in contemplation of dismissal; and those abated by the death of the defendant.

Table 15

THE SUPREME COURT WITHIN THE CITY OF NEW YORK
CRIMINAL TERMS
Dispositions, Expressed in Terms of Defendant-Indictments by Nature of Disposition

*1979 and 1980**

Activity	New York		Bronx		Kings		Queens		Richmond		Total N.Y.C.	
	1979	1980	1979	1980	1979	1980	1979	1980	1979	1980	1979	1980
Type of disposition												
Dismissals	1.195	1.097	577	637	722	761	690	594	110	100	3,294	3,189
Pleas of guilty — felony	3.760	4.754	2.224	2.588	2.844	3.202	1.345	1.681	258	264	10.431	12.489
Pleas of guilty — misdemeanors	355	252	70	60	269	158	286	158	57	55	1.037	683
Convictions	472	493	333	346	441	465	244	237	35	25	1,525	1.566
Acquittals	212	196	187	208	167	152	151	136	10	9	727	701
Total dispositions	5.994	6.792	3.391	3,839	4,443	4.738	2.716	2.806	470	453	17,014	18.628
Days sat	8,004	8.457	6.316	6.451	8,029	7.076	3.891	3.771	437	417	26,677	26,172
Defendants tried through proof completed	770	737	562	574	658	639	426	397	49	39	2.465	2.386
Comparative measures												
Dismissals as % of dispositions	19.9	16.1	17.0	16.5	16.3	16.0	25.4	21.1	23.4	22.0	19.4	17.1
Pleas as % of dispositions	63.6	73.7	67.6	68.9	70.1	70.9	60.1	65.5	67.0	70.4	67.4	70.7
Verdicts as % of dispositions	11.4	10.1	15.3	14.4	13.7	13.0	14.5	13.2	9.6	7.5	13.2	12.1
Felony pleas as % of all pleas	91.4	95.0	96.9	97.7	91.4	95.3	82.5	91.4	81.9	82.8	91.0	94.8
Dispositions per day sat	0.75	0.80	0.54	0.59	0.55	0.66	0.70	0.74	1.08	1.05	0.64	0.70

*Criminal terms begin on the first Monday of the calendar year and end on the Sunday before the first Monday of the succeeding calendar year.

Table 16

THE SUPREME COURT WITHIN THE CITY OF NEW YORK
Felony Defendants Pending Disposition
(Expressed in Terms of Defendant-Indictments)

December 31, 1979 and December 28, 1980

County	Number of Cases Pending End of Term 13	
	1979	1980
New York County	3,147	3,065
Bronx County	1,658	1,919
Kings County	2,705	3,223
Queens County	1,277	1,748
Richmond County	131	96
Total New York City	8,918	10,051

Table 17

THE SUPREME COURT WITHIN THE CITY OF NEW YORK
Number of Detainees Awaiting Disposition or Sentencing
(Expressed in Terms of Individual Detainees)

End of December, 1980

County	Total Number[1]	Percent of City
New York County	1,269	33%
Bronx County	927	24
Kings County	1,067	27
Queens County	569	15
Richmond County	38	1
Total New York City	3,870	100%

[1] Totals from NYC Department of Correction.

Table 18

THE SUPREME COURT AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK – CRIMINAL TERMS

Indictments Filed, Arraignments, Dispositions, Youthful Offenders and Sentences by County, District, and Judicial Dept. (Expressed in Terms of Defendant-Indictments)

December 31, 1979 through December 28, 1980

Department District County	Total Defendant Indictments and Superior Court Informations Filed	Total Arraignments	Dispositions[a]				Trials through Proof Completed	Mistrials	Disagreements	Eligible Youths Adjudicated as Youthful Offenders	Sentences Imposed
			Indictments Dismissed by Court[b]	Pleas of Guilty	Acquittals	Convictions					
SECOND DEPARTMENT											
9. Dutchess	193	216	30	210	4	15	20	1	0	46	140
Orange	298	300	36	236	4	22	20	1	0	63	205
Putnam	49	59	2	23	1	0	2	0	0	6	34
Rockland	360	353	19	343	2	24	24	2	1	54	238
Westchester	1,120	1,221	95	927	38	99	133	6	4	178	806
10. Nassau	1,695	1,698	139	1,440	36	123	153	17	10	291	1,159
Suffolk	2,181	2,083	411	1,519	32	104	129	3	6	263	1,331
Total Second Dept.	5,896	5,930	732	4,698	117	387	481	30	21	901	3,913
THIRD DEPARTMENT											
3. Albany	413	412	48	264	19	56	71	1	2	12	299
Columbia	69	61	12	55	1	2	2	0	0	2	50
Greene	101	90	7	77	2	5	9	2	0	6	65
Rensselaer	203	174	25	150	2	3	6	0	0	37	113
Schoharie	31	26	6	28	1	1	1	0	0	6	25
Sullivan	151	154	18	154	1	1	2	0	0	17	121
Ulster	209	205	23	170	0	11	16	0	1	54	126
4. Clinton	169	175	50	117	2	5	7	0	0	18	102
Essex	130	99	51	85	0	5	0	0	18	63	
Franklin	114	111	61	68	0	0	1	0	0	13	49
Fulton	94	83	20	58	1	3	5	0	0	15	46
Hamilton	25	37	3	25	0	0	0	0	0	8	18
Montgomery	64	97	21	80	1	4	6	0	0	26	52
St. Lawrence	266	232	78	177	7	6	15	2	1	45	129
Saratoga	91	97	19	82	0	5	6	0	0	4	80
Schenectady	262	271	85	182	2	6	7	0	0	51	132
Warren	79	78	2	41	0	0	0	0	0	5	31
Washington	35	29	0	31	0	0	0	0	0	1	30
6. Broome	529	519	24	432	4	17	30	4	4	101	326
Chemung	360	340	19	294	5	21	24	0	0	82	244
Chenango	59	56	14	52	1	2	3	0	0	5	47
Cortland	89	66	20	76	1	1	2	0	0	18	62
Delaware	30	28	4	29	0	3	3	0	0	13	13
Madison	135	102	5	118	0	1	1	0	0	31	86
Otsego	99	81	11	93	5	7	13	0	0	20	62
Schuyler	58	53	29	42	1	3	4	0	0	1	43
Tioga	87	97	2	66	2	5	6	0	0	23	47
Tompkins	81	80	12	58	3	17	21	0	0	6	59
Total Third Dept.	4,033	3,853	669	3,104	61	185	261	9	8	628	2,520
FOURTH DEPARTMENT											
5. Herkimer	15	14	6	15	0	1	1	0	0	1	12
Jefferson	261	258	28	220	3	2	7	0	1	54	158
Lewis	25	36	3	32	1	0	1	0	0	12	24
Oneida	540	544	68	472	7	17	22	2	2	130	343
Onondaga	829	924	39	914	23	42	62	5	1	227	616
Oswego	157	188	10	132	2	3	7	1	0	52	95
7. Cayuga	63	61	7	39	1	4	7	0	0	3	36
Livingston	186	167	11	142	0	4	4	0	0	32	106
Monroe	905	1,039	168	721	31	102	134	4	1	102	673
Ontario	183	191	0	156	1	9	10	0	0	39	126
Seneca	36	48	4	44	1	2	4	0	0	4	43
Steuben	150	152	23	116	1	7	8	0	0	40	92
Wayne	152	103	7	137	0	6	6	1	0	34	94
Yates	19	19	0	15	0	1	1	0	0	4	6
8. Allegany	47	43	3	37	0	3	5	0	0	5	28
Cattaraugus	113	102	6	96	1	3	7	2	0	29	66
Chautauqua	326	331	46	248	1	4	6	0	0	56	186
Erie	936	1,104	327	946	54	99	156	2	15	128	882
Genesee	74	69	1	51	0	7	5	0	0	10	48
Niagara	227	279	58	351	19	16	43	4	0	46	280
Orleans	165	160	11	94	6	20	23	0	0	19	90
Wyoming	86	107	7	70	0	0	0	0	0	18	44
Total Fourth Dept.	5,495	5,939	833	5,048	152	352	519	21	20	1,045	4,048
Total Outside N.Y.C.	15,424	15,722	2,234	12,850	330	924	1,261	60	49	2,584	10,481

[a] Includes indictments disposed of in cases initiated prior to the period covered by this table.

[b] Includes, among others, those indictments dismissed against defendants sentences on another indictment or disposed of by consolidation; those in which defendants were civilly committed to the Commissioner of Mental Hygiene or to the Division of Substance Abuse Services; and those abated by the death of the defendant.

Table 19

THE SUPREME COURT AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK — CRIMINAL TERMS

Dispositions by Type

(Expressed in Terms of Defendant-Indictments)

1979 and 1980

Nature of Disposition	Number		Percent	
	1979	1980	1979	1980
1. By dismissal of indictment by court	2,473	2,234	15.0	13.7
2. By plea of guilty	12,676	12,850	76.9	78.6
3. By acquittal after trial	365	330	2.2	2.0
4. By conviction after trial	980	924	5.9	5.7
Total defendant-indictments disposed of	16,494	16,338	100.0	100.0

Table 20

THE SUPREME AND COUNTY COURTS OUTSIDE THE CITY OF NEW YORK

Number of Detainees Awaiting Disposition and Sentencing

(Expressed in Terms of Individual Detainees)

End of Dec. 1979 and 1980

Jurisdiction	Number of Detainees		Number Detained Over One Year	
	1979	1980	1979	1980
Second Department				
Ninth District	231	275	8	2
Tenth District	167	335	1	5
Total Second Department	398	630	9	7
Third Department				
Third District	134	97	1	0
Fourth District	36	39	0	0
Sixth District	86	62	0	0
Total Third Department	256	198	1	0
Fourth Department				
Fifth District	70	74	0	0
Seventh District	98	84	2	1
Eighth District	144	239	2	4
Total Fourth Department	312	297	4	5
Grand Total	966	1,225	14	12

NOTE: 1980 Reporting delinquent from Rensselaer, Schoharie and Sullivan counties in the 3rd district; Schenectady and Warren counties in the 4th district and Ontario county in the 7th district.

Table 21

THE CRIMINAL COURT OF THE CITY OF NEW YORK – CRIMINAL PROCEEDINGS

Arrest Cases

1980

Activity	New York	Bronx	Kings	Queens	Richmond	Total NYC
Judge Days	4,463	2,880	3,169	2,536	365	13,413
Calendared Cases	224,374	150,398	150,265	126,811	19,035	670,883
Filings	67,365	34,033	44,462	32,644	4,464	182,968
Warrants Filed	25,559	12,044	13,668	7,711	1,520	60,502
Warrants Executed	21,632	10,352	11,484	6,266	1,183	50,917
Preliminary Hearings	433	459	568	1,055	296	2,811
Other Hearings & Motions	211	229	208	675	40	1,363
Trials	386	176	197	232	62	1,053
Dismissals[1]	18,491	13,804	17,531	12,528	1,947	64,301
Pleas of Guilty	36,486	12,242	18,815	13,035	1,888	82,466
Acquittals	166	134	110	182	42	634
Convictions	200	72	68	83	35	458
Referrals to Grand Jury	6,103	4,703	4,927	3,827	481	20,041
Other Dispositions[2]	3,328	2,026	3,085	1,888	106	10,433
Sentences Imposed	38,022	12,694	19,540	13,437	1,947	85,640
Pending Dispositions	4,835	3,241	1,963	3,175	366	13,580
Pending Sentence	962	404	757	623	39	2,785

[1] Includes, among others, abatements by death, commitments to Mental Hygiene and ACD's.

[2] Includes transfers to family court, other jurisdictions, criminal court summons parts and arrests parts in other counties.

Table 22

THE CRIMINAL COURT OF THE CITY OF NEW YORK – CRIMINAL PROCEEDINGS

Cases Disposed of by Nature of Disposition

Arrest Cases

1979 and 1980

Activity	New York		Bronx		Kings		Queens		Richmond		Total NYC	
	1979	1980	1979	1980	1979	1980	1979	1980	1979	1980	1979	1980
Dismissals	23,150	18,491	16,834	13,804	22,762	17,531	13,745	12,528	1,846	1,947	78,337	64,301
Pleas of guilty	42,591	36,486	13,865	12,242	20,157	18,815	14,649	13,035	1,846	1,888	93,108	82,466
Acquittals	150	166	182	134	133	110	193	182	45	42	703	634
Convictions	141	200	65	72	68	68	112	83	35	35	421	458
Referrals to grand jury[1]	5,467	6,103	3,528	4,703	4,249	4,927	2,860	3,827	538	481	16,642	20,041
Other dispositions	3,555	3,328	2,345	2,026	3,125	3,085	2,096	1,888	124	106	11,245	10,433
Total dispositions	75,054	64,774	36,819	32,981	50,494	44,536	33,655	31,543	4,434	4,499	200,456	178,333
Filings	78,377	67,365	36,526	34,033	50,243	44,462	33,556	32,644	4,665	4,464	203,367	182,968
Dispositions as % of filings	96	96	101	97	100	100	100	97	95	101	99	97
Dismissals as % of dispositions	31	29	46	42	45	39	41	40	42	43	39	36
Pleas as % of dispositions	57	56	38	37	40	42	44	41	2	42	46	46
Verdicts as % of dispositions	*	1	1	1	*	*	1	1	2	2	1	1
Referrals to grand jury as % of dispositions[1]	6	9	10	14	8	11	9	12	12	11	8	11
Other dispositions as % of dispositions	7	5	6	6	6	7	6	6	3	2	6	6

[1] Includes waivers of indictment.

Table 23

THE CRIMINAL COURT OF THE CITY OF NEW YORK
Number of Detainees Awaiting Action

1979 and 1980

Detainees	New York		Bronx		Kings		Queens		Richmond		Total NYC	
	1979	1980	1979	1980	1979	1980	1979	1980	1979	1980	1979	1980
Awaiting Action in the Criminal Court												
Awaiting Examination	109	154	100	134	217	246	167	184	10	13	603	731
Awaiting Disposition	261	251	193	133	35	139	67	94	4	1	560	618
Awaiting Sentencing	18	16	11	1	16	7	6	0	0	2	51	26
Total Criminal Court	388	421	304	268	268	392	240	278	14	16	1,214	1,375
Number Detained Over 30 Days	121	N/A	74	N/A	39	N/A	25	N/A	1	N/A	260	N/A

NOTE: The number of detainees awaiting action over 30 days at the end of 1980 is no longer available from the N.Y.C. Department of Correction.

Table 24

THE CRIMINAL COURT OF THE CITY OF NEW YORK
Filings
Summons Cases[1]

Calendar Years 1979 and 1980 Compared

Type of Summons	1979	1980
Traffic	118,929	103,296
Non traffic	475,612	239,601
Total summonses[2]	594,541	342,897

[1] Includes all non-arrest cases and arrest case of peddling where a desk appearance was issued.

[2] Includes universal and non-universal summonses.

Table 25

THE CRIMINAL COURT OF THE CITY OF NEW YORK
Fines Collected*

Calendar Years 1979 and 1980 Compared

Type of Cases	1979	1980
Arrest	$1,991,123.00	$1,050,628.00
Summons	1,770,892.00	1,294,985.00
Total fines collected	$3,762,015.00	$2,345,613.00

*City and State fines, excluding fees.

Table 26

THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK CRIMINAL MATTERS

Arraignments and Dispositions by State and by District and Region

1980

District and Region	Arraignments	Dispositions							Mistrials
		Dismissals	Pleas	Trials		Held for Grand Jury	Other	Total	
				Convictions	Acquittals				
District 3	6,395	2,032	3,396	34	44	132	342	5,980	6
District 4	4,690	1,272	3,095	37	13	129	179	4,725	6
District 5	9,083	3,022	4,240	37	40	1,124	734	9,197	2
District 6	5,368	1,209	3,472	114	57	186	45	5,083	0
District 7	14,607	6,603	5,269	55	55	665	216	12,323	0
District 8	20,557	10,907	8,136	273	248	1,149	298	21,011	4
District 9	15,045	6,917	9,684	140	79	817	347	17,984	3
District 10	106,664	21,053	46,055	139	207	716	208	68,378	7
Total outside of N.Y.C.	182,409	52,475	83,347	829	743	4,918	2,369	144,681	28

NOTE: Date incomplete from Cohoes, and Kingston in the Third District; Johnstown, and Schenectady in the Fourth District; Fulton, Oswego, and Utica in the Fifth District; Binghamton, Cortland and Elmira in the Sixth District; and Lockport in the Eighth District.

No reporting from Saratoga Springs in the Fourth District; Watertown in the Fifth District; and Olean in the Eighth District.

Table 27

THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK MOTOR VEHICLE MATTERS

Dispositions by State and by District and Region

1980

District and Region	Dispositions							Mistrials
	Dismissals	Pleas	Trials		Held for Grand Jury	Other	Total	
			Convictions	Acquittals				
District 3	4,619	23,809	836	807	5	6,926	37,002	271
District 4	2,048	6,967	27	7	6	195	9,250	0
District 5	10,145	18,467	133	39	33	2,394	31,211	0
District 6	2,807	9,699	311	99	31	75	13,022	0
District 7	2,713	5,132	78	19	63	135	8,140	0
District 8	4,904	16,041	672	253	24	255	22,149	1
District 9	10,605	43,808	1,267	354	34	139	56,207	0
District 10	120,875	129,742	1,004	291	1	0	251,913	0
Total outside of NYC	158,716	253,665	4,328	1,869	197	10,119	428,894	272

NOTE: Date incomplete from Cohoes, and Kingston in the Third District; Johnstown, and Schenectady in the Fourth District; Fulton, Oswego, and Utica in the Fifth District; Binghamton, Cortland and Elmira in the Sixth District; and Lockport in the Eighth District.

No reporting from Saratoga Springs in the Fourth District; Watertown in the Fifth District; and Olean in the Eighth District.

Table 28

TOWN COURTS AND VILLAGE COURTS
Number of Criminal Cases by Type

1979 and 1980

Type of Cases	Number of Cases 1979	Number of Cases 1980
Town and Village Speeding Ordinances Established Pursuant to Sections 1643, 1644, 1662a, 1663 and 1670 of the Vehicle and Traffic Law	40,164	46,953
Town and Village Ordinances and Vehicle and Traffic Law Title VII (Except Sections 1180, 1181, 1182, 1190, 1192, 1643, 1644, 1662a and 1663)	1,360,586	1,449,666
Vehicle and Traffic Law Titles I — VI (Except Article 2A), Title VII Sections 1180, 1181, 1182, 1190 and 1192, and Thruway Rules and Regulations	850,011	842,570
Tax Law Section 512	7,773	7,663
Penal Law and Indictable Offenses	109,150	115,783
Environmental Conservation Criminal	9,730	11,532
Other	19,505	44,327
Total	2,396,919	2,518,494

Table 29
THE SUPREME COURT — CIVIL TERMS
Actions Received by Type and by County, District and Judicial Department
December 31, 1979 through December 28, 1980

County	Dept.	Dist.	Tort			Contested Matri-monial	Tax Certiorari	Condem-nation	Other	Total
			Motor Vehicle	Other Tort	Medical Mal-practice					
Albany	3	3	216	196	31	148	4	1	332	928
Allegany	4	8	15	4	0	27	0	0	13	59
Bronx	1	1	1,409	1,174	145	301	143	4	241	3,417
Broome	3	6	92	67	8	58	4	0	157	386
Cattaraugus	4	8	20	16	6	38	0	0	25	105
Cayuga	4	7	13	22	2	35	0	0	36	108
Chautauqua	4	8	30	23	4	129	0	0	45	231
Chemung	3	6	75	45	6	60	0	0	68	254
Chenango	3	6	20	7	4	17	1	3	27	79
Clinton	3	4	36	19	10	37	2	0	46	150
Columbia	3	3	24	21	1	33	1	2	35	117
Cortland	3	6	11	10	0	7	0	0	29	57
Delaware	3	6	12	14	0	16	3	0	24	69
Dutchess	2	9	214	149	19	122	127	0	165	796
Erie	4	8	745	550	89	893	5	4	535	2,821
Essex	3	4	12	6	3	11	1	0	26	59
Franklin	3	4	15	6	2	20	0	0	19	62
Fulton	3	4	69	40	2	31	1	0	47	190
Genesee	4	8	11	3	3	37	0	0	29	83
Greene	3	3	42	22	3	13	0	0	33	113
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	35	31	0	68	0	0	54	188
Jefferson	4	5	44	21	5	101	1	0	57	229
Kings	2	2	1,633	1,572	206	956	95	0	737	5,199
Lewis	4	5	7	1	0	11	0	0	10	29
Livingston	4	7	17	9	0	56	1	0	21	104
Madison	3	6	39	16	2	35	0	0	49	141
Monroe	4	7	249	216	30	705	6	17	396	1,619
Montgomery	3	4	42	24	2	18	0	0	25	111
Nassau	2	10	2,014	1,231	214	862	2,979	11	2,745	10,056
New York	1	1	1,781	2,380	329	404	199	2	2,889	7,984
Niagara	4	8	119	102	6	147	2	9	100	485
Oneida	4	5	167	105	21	262	49	0	217	821
Onondaga	4	5	312	229	42	301	77	1	427	1,389
Ontario	4	7	24	20	3	52	6	0	49	154
Orange	2	9	342	196	12	118	402	0	219	1,289
Orleans	4	8	7	15	0	22	0	0	1	45
Oswego	4	5	70	14	1	113	1	0	107	306
Otsego	3	6	28	19	3	17	0	0	52	119
Putnam	2	9	68	44	5	55	1	0	54	227
Queens	2	11	1,993	1,488	237	721	91	10	764	5,304
Rensselaer	3	3	90	72	10	39	9	0	71	291
Richmond	2	2	344	248	15	183	21	9	76	896
Rockland	2	9	303	251	19	126	301	3	218	1,221
Saratoga	3	4	123	77	14	60	9	2	82	367
Schenectady	3	4	219	171	48	100	63	0	195	796
Schoharie	3	3	13	13	0	30	0	0	16	72
Schuyler	3	6	3	7	0	3	0	0	10	23
Seneca	4	7	8	4	0	38	0	0	41	91
St. Lawrence	3	4	26	9	1	54	5	0	61	156
Steuben	4	7	55	23	1	88	1	0	67	235
Suffolk	2	10	1,992	1,040	115	1,224	419	111	1,104	6,005
Sullivan	3	3	88	57	10	14	5	0	109	283
Tioga	3	6	14	10	0	15	11	0	35	85
Tompkins	3	6	36	30	1	34	2	0	78	181
Ulster	3	3	123	91	3	63	5	1	168	454
Warren	3	4	20	31	6	20	4	0	41	122
Washington	3	4	17	11	1	20	1	0	13	63
Wayne	4	7	21	16	0	55	0	0	23	115
Westchester	2	9	792	666	92	466	4,077	3	699	6,795
Wyoming	4	8	14	10	1	17	0	0	9	51
Yates	4	7	3	1	0	0	0	0	14	27
Total District		1	3,190	3,554	474	705	342	6	3,130	11,401
Total District		2	1,977	1,820	221	1,139	116	9	813	6,095
Total District		3	596	472	58	340	24	4	764	2,258
Total District		4	579	394	89	371	86	2	555	2,076
Total District		5	635	401	69	856	128	1	872	2,962
Total District		6	330	225	24	262	21	3	529	1,394
Total District		7	390	311	36	1,038	14	17	647	2,453
Total District		8	961	723	109	1,310	7	13	757	3,880
Total District		9	1,719	1,306	147	887	4,908	6	1,355	10,328
Total District		10	4,006	2,271	329	2,086	3,398	122	3,849	16,061
Total District		11	1,993	1,488	237	721	91	10	764	5,304
Total New York City			7,160	6,862	932	2,565	549	25	4,707	22,800
Total Outside of NYC			9,216	6,103	861	7,150	8,586	168	9,328	41,412
Total New York State			16,376	12,965	1,793	9,715	9,135	193	14,035	64,212

Table 30
THE SUPREME COURT – CIVIL TERMS
Actions Disposed of by Type and by County, District and Region
December 31, 1979 through December 28, 1980

County District	Dept.	Dist.	Tort			Contested Matri-monial	Tax Certiorari	Condem-nation	Other	Total
			Motor Vehicle	Other Tort	Medical mal-practice					
Albany	3	3	269	243	25	150	12	2	429	1.130
Allegany	4	8	18	5	3	30	1	0	18	75
Broome	3	6	94	86	11	45	7	0	196	439
Cattaraugus	4	8	35	17	1	61	0	0	46	160
Cayuga	4	7	15	19	2	42	0	0	38	116
Chautauqua	4	8	44	25	1	142	0	0	53	265
Chemung	3	6	62	37	6	63	0	0	91	259
Chenango	3	6	23	19	4	18	2	3	29	98
Clinton	3	4	27	8	3	45	0	0	46	129
Columbia	3	3	23	13	0	24	0	1	26	87
Cortland	3	6	17	7	1	10	1	0	28	64
Delaware	3	6	11	12	2	16	2	0	32	75
Dutchess	2	9	271	177	9	143	147	0	188	935
Erie	4	8	1.528	1.180	92	1.165	2	6	806	4.779
Essex	3	4	10	3	1	13	1	0	25	53
Franklin	3	4	29	11	2	25	0	0	26	93
Fulton	3	4	52	27	3	27	10	0	51	170
Genesee	4	8	24	6	2	38	15	0	55	140
Greene	3	3	26	24	1	13	0	0	22	86
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	35	27	3	88	4	0	77	234
Jefferson	4	5	50	22	6	64	1	0	41	184
Kings	2	2	3.193	3.660	227	924	116	16	199	8.335
Lewis	4	5	19	0	0	4	0	0	24	47
Livingston	4	7	15	11	0	60	1	0	23	110
Madison	3	6	43	16	4	32	0	0	50	145
Monroe	4	7	579	473	65	925	8	13	669	2.732
Montgomery	3	4	50	26	4	31	1	0	41	153
Nassau	2	10	2.965	1,814	162	958	1.368	31	2.462	9.760
New York	1	1	2.858	3.770	324	462	732	0	3.659	11.805
Niagara	4	8	131	96	17	137	2	2	107	492
Oneida	4	5	202	198	13	280	55	0	288	1.036
Onondaga	4	5	388	275	37	334	62	0	626	1.722
Ontario	4	7	28	16	0	67	0	0	55	166
Orange	2	9	355	138	20	113	350	0	228	1.204
Orleans	4	8	10	16	5	21	0	0	0	52
Oswego	4	5	87	14	7	93	0	0	71	272
Otsego	3	6	28	24	4	25	2	0	45	128
Putnam	2	9	72	77	7	28	0	0	49	233
Queens	2	11	2,810	1,952	261	771	80	11	646	6,531
Rensselaer	3	3	83	43	11	36	11	0	142	326
Richmond	2	2	333	231	24	184	12	27	80	891
Rockland	2	9	387	337	25	165	319	3	223	1.459
St. Lawrence	3	4	27	4	7	37	3	1	41	120
Saratoga	3	4	97	49	7	39	6	0	63	261
Schenectady	3	4	281	162	39	97	42	0	206	827
Schoharie	3	3	23	18	3	32	1	0	35	112
Schuyler	3	6	2	5	0	5	0	0	11	23
Seneca	4	7	10	8	0	17	0	0	18	53
Steuben	4	7	60	36	1	100	0	0	66	263
Suffolk	2	10	3,374	1,368	146	1.023	357	179	1.110	7,557
Sullivan	3	3	93	77	6	17	2	0	129	324
Tioga	3	6	14	10	0	13	2	1	21	61
Tompkins	3	6	37	25	1	37	7	0	58	165
Ulster	3	3	136	82	8	48	11	0	162	447
Warren	3	4	16	7	1	13	2	0	68	107
Washington	3	4	28	10	1	21	1	0	16	77
Wayne	4	7	16	7	1	81	0	0	29	134
Westchester	2	9	889	671	75	515	2,527	5	701	5,383
Wyoming	4	8	25	15	0	19	0	0	20	79
Yates	4	7	3	2	0	10	0	0	10	25
Bronx	1	1	1.601	1,552	155	324	884	5	248	4,769
Total District		1	4,459	5,322	479	786	1,616	5	3,907	16,574
Total District		2	3,526	3,891	251	1,108	128	43	279	9,226
Total District		3	653	500	54	320	37	3	945	2,512
Total District		4	617	307	68	348	66	1	583	1,990
Total District		5	781	536	66	863	122	0	1.127	3,495
Total District		6	331	241	33	264	23	4	561	1,457
Total District		7	726	572	69	1,302	9	13	908	3,599
Total District		8	1,815	1,360	121	1,613	20	8	1,105	6,042
Total District		9	1,974	1,400	136	964	3,343	8	1,389	9,214
Total District		10	6,339	3,182	308	1,981	1,725	210	3,572	17,317
Total District		11	2,810	1,952	261	771	80	11	646	6,531
Total New York City			10,795	11,165	991	2,665	1,824	59	4,832	32,331
Total Outside NYC			13,326	8,098	855	7,655	5,345	247	10,190	45,626
Total New York State			24,031	19,263	1,846	10,320	7,169	306	15,022	77,957

NOTE: In 1980, the Supreme Court disposed of 52.141 uncontested matrimonial cases: 23,083 cases in New York City and 29,058 cases Upstate.

Table 31
THE SUPREME COURT — CIVIL TERMS
Actions Disposed of by Stage and Nature and by County, District, and Region
December 31, 1979 through December 28, 1980

County and Region	Dept.	Dist.	Before Trial			During Trial		After Trial		Total Disposition
			Transferred	Marked/ Stricken	Disc. Withdrawn Settlements	Jury	Non-jury	Jury	Non-jury	
Albany	3	3	320	135	435	76	16	46	102	1,130
Allegany	4	8	1	7	29	1	8	4	25	75
Broome	3	6	100	47	204	22	11	23	32	439
Cattaraugus	4	8	8	38	106	2	1	1	4	160
Cayuga	4	7	5	5	31	16	8	6	45	116
Chautauqua	4	8	13	22	209	5	2	7	7	265
Chemung	3	6	15	35	139	10	3	16	41	259
Chenango	3	6	3	12	52	5	2	7	17	98
Clinton	3	4	5	26	54	9	3	8	24	129
Columbia	3	3	1	0	47	8	3	11	17	87
Cortland	3	6	1	20	22	6	3	4	8	64
Delaware	3	6	1	22	29	1	4	6	12	75
Dutchess	2	9	114	52	523	57	11	30	148	935
Erie	4	8	951	199	2,918	168	75	136	332	4,779
Essex	3	4	0	3	41	3	1	4	1	53
Franklin	3	4	1	8	67	1	1	12	3	93
Fulton	3	4	11	25	84	23	5	7	15	170
Genesee	4	8	24	4	89	8	1	5	9	140
Greene	3	3	3	10	52	3	0	6	12	86
Hamilton	3	4	0	0	0	0	0	0	0	0
Herkimer	4	5	11	57	70	0	2	8	86	234
Jefferson	4	5	3	23	76	12	2	11	57	184
Kings	2	2	1,513	1,039	3,849	579	120	251	984	8,335
Lewis	4	5	0	1	43	1	0	0	2	47
Livingston	4	7	7	6	82	3	2	4	6	110
Madison	3	8	2	24	61	17	3	3	35	145
Monroe	4	7	185	324	1,089	190	63	186	695	2,732
Montgomery	3	4	9	25	90	3	1	6	19	153
Nassau	2	10	1,483	450	3,763	642	1,175	259	1,988	9,760
New York	1	1	1,737	1,264	6,477	543	222	452	1,110	11,805
Niagara	4	8	50	14	250	17	4	24	133	492
Oneida	4	5	187	112	438	22	7	54	216	1,036
Onondaga	4	5	213	455	614	30	6	100	304	1,722
Ontario	4	7	14	14	51	12	0	7	68	166
Orange	2	9	124	84	742	82	8	41	123	1,204
Orleans	4	8	1	3	25	4	0	11	8	52
Oswego	4	5	5	39	100	17	12	6	93	272
Otsego	3	6	3	14	86	12	3	2	8	128
Putnam	2	9	0	6	157	35	0	14	21	233
Queens	2	11	1,069	632	2,930	583	174	337	806	6,531
Rensselaer	3	3	96	2	187	19	2	12	8	326
Richmond	2	2	52	73	440	64	6	45	211	891
Rockland	2	9	167	94	798	124	28	54	194	1,459
St. Lawrence	3	4	0	1	63	13	3	32	8	120
Saratoga	3	4	3	34	160	28	8	16	12	261
Schenectady	3	4	88	85	505	81	1	19	48	827
Schoharie	3	3	6	7	50	11	2	4	32	112
Schuyler	3	6	0	0	16	2	1	1	3	23
Seneca	4	7	2	8	28	2	1	3	9	53
Steuben	4	7	24	40	144	3	2	5	45	263
Suffolk	2	10	1,072	390	3,813	712	109	183	1,278	7,557
Sullivan	3	3	14	24	211	23	3	12	37	324
Tioga	3	6	2	8	25	6	9	5	6	61
Tompkins	3	6	0	37	57	18	8	7	38	165
Ulster	3	3	72	31	218	43	1	29	53	447
Warren	3	4	2	13	68	4	0	8	12	107
Washington	3	4	0	24	30	1	4	4	4	77
Wayne	4	7	7	16	23	3	2	4	79	134
Westchester	2	9	358	261	3,416	192	177	105	834	5,383
Wyoming	4	8	2	7	52	1	0	3	14	79
Yates	4	7	2	1	11	3	2	1	5	25
Bronx	1	1	715	669	2,282	349	42	207	505	4,769
Total District		1	2,452	1,933	8,759	892	264	659	1,615	16,574
Total District		2	1,565	1,112	4,289	643	126	296	1,195	9,226
Total District		3	512	209	1,200	183	27	120	261	2,512
Total District		4	119	244	1,162	176	27	116	146	1,990
Total District		5	419	687	1,341	82	29	179	758	3,495
Total District		6	127	219	691	99	47	74	200	1,457
Total District		7	246	414	1,459	232	80	216	952	3,599
Total District		8	1,050	294	3,678	206	91	191	532	6,042
Total District		9	803	497	5,636	490	224	244	1,320	9,214
Total District		10	2,555	840	7,576	1,354	1,284	442	3,266	17,317
Total District		11	1,069	632	2,930	583	174	337	806	6,531
Total New York City			5,086	3,677	15,978	2,118	564	1,292	3,616	32,331
Total Outside NYC			5,831	3,404	22,743	2,822	1,809	1,582	7,435	45,626
Total New York State			10,917	7,081	38,721	4,940	2,373	2,874	11,051	77,957

NOTE: In 1980, the Supreme Court disposed of 52,141 uncontested matrimonial cases: 23,083 cases in New York City and 29,058 cases Upstate.

Table 32
(Partial)

THE SUPREME COURT – CIVIL TERMS
Actions Received, Disposed and Change in Pending and Projected Average Age by County, District, and Region

December 31, 1979 through December 28, 1980

County and Region	Dept.	Dist.	Received			Disposed			End Pending			Change in Pending						Projected Average Age (mos.)
												Actions			Percent			
			Non-matri-monial	Contested Matri-monial	Total	Non-matri-monial	Contested Matri-monial	Total	Non-Matri-monial	Contested Matri-monial	Total	Non-matri-monial	Contested Mats.	Total	Non-matri-monial	Contested Matri-monial	Total	
Albany	3	3	780	148	928	980	150	1.130	768	78	846	-198	5	-193	-20%	06%	-18%	10
Allegany	4	8	32	27	59	45	30	75	9	1	10	-12	-2	-14	-57%	-66%	-58%	2
Broome	3	6	328	58	386	394	45	439	231	52	283	-53	15	-38	-18%	40%	-11%	8
Cattaraugus	4	8	67	38	105	99	61	160	29	8	37	-46	-6	-52	-61%	-42%	-58%	4
Cayuga	4	7	73	35	108	74	42	116	24	4	28	-2	-9	-11	-07%	-69%	-28%	3
Chautauqua	4	8	102	129	231	123	142	265	125	46	171	-20	-8	-28	-13%	-14%	-14%	8
Chemung	3	6	194	60	254	196	63	259	138	26	164	-2	-2	-4	-01%	-07%	-02%	7
Chenango	3	6	62	17	79	80	18	98	14	1	15	-17	0	-17	-54%	00%	-53%	2
Clinton	3	4	113	37	150	84	45	129	88	30	118	26	-7	19	41%	-18%	19%	10
Columbia	3	3	84	33	117	63	24	87	51	10	61	13	5	18	34%	00%	41%	7
Cortland	3	6	50	7	57	54	10	64	28	3	31	-4	-3	-7	-12%	-50%	-18%	6
Delaware	3	6	53	16	69	59	16	75	31	6	37	-5	-1	-6	-13%	-14%	-13%	6
Dutchess	2	9	674	122	796	792	143	935	363	51	414	-110	-20	-130	-23%	-28%	-23%	6
Erie	4	8	1.928	893	2.821	3.614	1.165	4.779	2.191	245	2.436	-1.656	-302	-1.958	-43%	-55%	-44%	8
Essex	3	4	48	11	59	40	13	53	48	5	53	12	-2	10	33%	-28%	23%	10
Franklin	3	4	42	20	62	68	25	93	81	9	90	-22	-5	-27	-21%	-35%	-23%	13
Fulton	3	4	159	31	190	143	27	170	128	17	145	10	5	15	08%	41%	11%	9
Genesee	4	8	46	37	83	102	38	140	27	14	41	-52	-4	-56	-65%	-22%	-57%	5
Greene	3	3	100	13	113	73	13	86	64	7	71	19	5	24	42%	50%	51%	8
Hamilton	3	4	0	0	0	0	0	0	0	0	0	0	0	0	00%	00%	00%	0
Herkimer	4	5	120	68	188	146	88	234	74	25	99	-32	-19	-51	-30%	-43%	-34%	6
Jefferson	4	5	128	101	229	120	64	184	96	51	147	8	29	37	09%	31%	33%	8
Kings	2	2	4.243	956	5.199	7.411	924	8.335	4.366	153	4.519	-2.946	39	-2.907	-40%	34%	-39%	8
Lewis	4	5	18	11	29	43	4	47	3	2	5	-3	1	-2	-50%	00%	-28%	1
Livingston	4	7	48	56	104	50	60	110	26	7	33	-9	-7	-16	-25%	-50%	-32%	4
Madison	3	6	106	35	141	113	32	145	29	2	31	-10	-4	-14	-25%	-66%	-31%	3
Monroe	4	7	914	705	1.619	1.807	925	2.732	271	155	426	-895	-227	-1.122	-76%	-59%	-72%	4
Montgomery	3	4	93	18	111	122	31	153	103	10	113	-27	-18	-45	-20%	-64%	-28%	10
Nassau	2	10	9.194	862	10.056	8.802	958	9.760	9.136	411	9.547	444	96	540	05%	30%	05%	11
New York	1	1	7.580	404	7.984	11.343	462	11.805	6.610	185	6.795	-3.837	-61	-3.898	-36%	-24%	-36%	8
Niagara	4	8	338	147	485	355	137	492	398	75	473	-16	9	-7	-03%	13%	-01%	11
Oneida	4	5	559	262	821	756	280	1.036	314	88	402	-191	-23	-214	-37%	-20%	-34%	5
Onondaga	4	5	1.088	301	1.389	1.388	334	1.722	748	180	928	-256	-29	-285	-25%	-13%	-23%	7
Ontario	4	7	102	52	154	9	67	166	41	11	52	-3	-6	-9	-06%	-35%	-14%	4
Orange	2	9	1.171	118	1.289	1.091	113	1.204	751	57	808	59	5	64	08%	09%	08%	7
Orleans	4	8	23	22	45	31	21	52	15	2	17	-3	-2	-5	-16%	-50%	-22%	4
Oswego	4	5	193	113	306	179	93	272	208	67	275	9	10	19	04%	17%	07%	11
Otsego	3	6	102	17	119	103	25	128	34	8	42	0	-9	-9	00%	-52%	-17%	4
Putnam	2	9	172	55	227	205	28	233	153	36	189	-37	4	-33	-19%	12%	-14%	10
Queens	2	11	4.583	721	5.304	5.760	771	6.531	3.259	70	3.329	-1.084	-22	-1.106	-24%	-23%	-24%	7
Rensselaer	3	3	252	39	291	290	36	326	259	25	284	-11	5	-6	-04%	25%	-02%	10

See note at the end of this table.

Table 32
(Concluded)

THE SUPREME COURT – CIVIL TERMS
Actions Received, Disposed and Change in Pending and Projected Average Age by County, District, and Region

December 31, 1979 through December 28, 1980

			Received			Disposed			End Pending			Change in Pending						
												Actions			Percent			
County and Region	Dept.	Dist.	Non-matrimonial	Contested Matrimonial	Total	Non-matrimonial	Contested Matrimonial	Total	Non-matrimonial	Contested Matrimonial	Total	Non-matrimonial	Contested mats.	Total	Non-matrimonial	Contested Matrimonial	Total	Projected Average Age (mos.)
Richmond	2	2	713	183	896	707	184	891	614	24	638	9	-4	5	01%	-14%	00%	8
Rockland	2	9	1,095	126	1,221	1,294	165	1,459	817	55	872	-189	-30	-219	-18%	-35%	-20%	8
St. Lawrence	3	4	102	54	156	83	37	120	63	26	89	15	10	25	31%	62%	39%	7
Saratoga	3	4	307	60	367	222	39	261	302	41	343	71	14	85	30%	51%	32%	13
Schenectady	3	4	696	100	796	730	97	827	717	63	780	-82	6	-76	-10%	10%	-08%	11
Schoharie	3	3	42	30	72	80	32	112	21	7	28	-36	-1	-37	-63%	-12%	-56%	4
Schuyler	3	6	20	3	23	18	5	23	4	0	4	1	-2	-1	33%	00%	-20%	2
Seneca	4	7	53	38	91	36	17	53	11	10	21	-3	2	-1	-21%	25%	-04%	4
Steuben	4	7	147	88	235	163	100	263	52	34	86	-19	-6	-25	-26%	-15%	-22%	4
Suffolk	2	10	4,781	1,224	6,005	6,534	1,023	7,557	4,693	415	5,108	-1,640	160	-1,480	-25%	62%	-22%	9
Sullivan	3	3	269	14	283	307	17	324	204	6	210	-41	-1	-42	-16%	-14%	-16%	8
Tioga	3	6	70	15	85	48	13	61	14	7	21	-4	4	0	-22%	33%	00%	4
Tompkins	3	6	147	34	181	128	37	165	105	14	119	18	-1	17	20%	-06%	16%	8
Ulster	3	3	391	63	454	399	48	447	355	51	406	1	12	13	00%	30%	03%	10
Warren	3	4	102	20	122	94	13	107	83	17	100	13	8	21	18%	88%	26%	10
Washington	3	4	43	20	63	56	21	77	14	3	17	-15	-4	-19	-51%	-57%	-52%	4
Wayne	4	7	60	55	115	53	81	134	47	28	75	-3	7	4	-06%	33%	05%	6
Westchester	2	9	6,329	466	6,795	4,868	515	5,383	4,166	169	4,335	1,249	-149	1,100	42%	-46%	34%	8
Wyoming	4	8	34	17	51	60	19	79	19	2	21	-24	-4	-28	-55%	-66%	-57%	5
Yates	4	7	18	9	27	15	10	25	6	1	7	-1	0	-1	-14%	00%	-12%	3
Bronx	1	1	3,116	301	3,417	4,445	324	4,769	1,524	57	1,581	-1,372	-15	-1,387	-47%	-20%	-46%	5
Total District		1	10,696	705	11,401	15,788	786	16,574	8,134	242	8,376	-5,209	-76	-5,285	-39%	-23%	-38%	7
Total District		2	4,956	1,139	6,095	8,118	1,108	9,226	4,980	177	5,157	-2,937	35	-2,902	-37%	24%	-36%	8
Total District		3	1,918	340	2,258	2,192	320	2,512	1,722	184	1,906	-253	30	-223	-12%	19%	-10%	9
Total District		4	1,705	371	2,076	1,642	348	1,990	1,627	221	1,848	1	7	8	00%	03%	00%	11
Total District		5	2,106	856	2,962	2,632	863	3,495	1,443	413	1,856	-465	-31	-496	-24%	-06%	-21%	7
Total District		6	1,132	262	1,394	1,193	264	1,457	628	119	747	-76	-3	-79	-10%	-02%	-09%	6
Total District		7	1,415	1,038	2,453	2,297	1,302	3,599	478	250	728	-935	-246	-1,181	-66%	-49%	-61%	4
Total District		8	2,570	1,310	3,880	4,429	1,613	6,042	2,813	393	3,206	-1,829	-319	-2,148	-39%	-44%	-40%	8
Total District		9	9,441	887	10,328	8,250	964	9,214	6,250	368	6,618	972	-190	782	18%	-34%	13%	8
Total District		10	13,975	2,086	16,061	15,336	1,981	17,317	13,829	826	14,655	-1,196	256	-940	-07%	44%	-06%	10
Total District		11	4,583	721	5,304	5,760	771	6,531	3,259	70	3,329	-1,084	-22	-1,106	-24%	-23%	-24%	7
Total Outside NYC			34,262	7,150	41,412	37,971	7,655	45,626	28,790	2,774	31,564	-3,781	-496	-4,277	-11%	-15%	-11%	8
Total NYC			20,235	2,565	22,800	29,666	2,665	32,331	16,373	489	16,862	-9,230	-63	-9,293	-36%	-11%	-35%	7
Total NYS			54,497	9,715	64,212	67,637	10,320	77,957	45,163	3,263	48,426	-13,011	-559	13,570	-22%	-14%	-21%	8

NOTE: In 1980, the Supreme Court disposed of 52,141 uncontested matrimonial cases: 23,083 cases in New York City and 29,058 cases Upstate.

Table 33

THE COUNTY COURTS — CIVIL TERMS

Actions Received by Type and by County, District and Region

December 31, 1979 through December 28, 1980

County and Region	Dept.	Dist.	Tort			Tax Certiorari	Condemnation	All Other	Total
			Motor Vehicle	Other Tort	Medical Malpractice				
Albany	3	3	7	5	0	0	0	32	44
Allegany	4	8	1	1	0	0	0	5	7
Broome	3	6	0	0	0	0	0	0	0
Cattaraugus	4	8	0	0	0	0	0	15	15
Cayuga	4	7	2	1	0	0	0	8	11
Chautauqua	4	8	0	0	0	0	0	17	17
Chemung	3	6	0	0	0	0	0	0	0
Chenango	3	6	0	0	0	0	0	7	7
Clinton	3	4	1	0	0	0	0	8	9
Columbia	3	3	2	0	0	0	0	8	10
Cortland	3	6	0	0	0	0	0	0	0
Delaware	3	6	0	1	0	0	0	7	8
Dutchess	2	9	47	33	0	0	0	142	222
Erie	4	8	2	5	0	0	0	20	27
Essex	3	4	0	1	0	0	0	3	4
Franklin	3	4	0	0	0	0	0	7	7
Fulton	3	4	9	4	0	0	0	11	24
Genesee	4	8	0	0	0	0	0	7	7
Greene	3	3	5	0	0	0	0	3	8
Hamilton	3	4	0	0	0	0	0	1	1
Herkimer	4	5	0	2	0	0	0	2	4
Jefferson	4	5	0	0	0	0	0	4	4
Lewis	4	5	0	0	0	0	0	0	0
Livingston	4	7	2	2	0	0	0	5	9
Madison	3	6	2	10	0	0	0	0	12
Monroe	4	7	0	0	0	0	0	0	0
Montgomery	3	4	2	3	0	0	0	10	15
Nassau	2	10	791	502	2	0	0	27	1,322
Niagara	4	8	0	0	0	0	0	0	0
Oneida	4	5	0	0	0	0	0	0	0
Onondaga	4	5	0	0	0	0	0	0	0
Ontario	4	7	0	0	0	0	0	8	8
Orange	2	9	50	18	1	0	0	82	151
Orleans	4	8	1	5	0	0	0	0	6
Oswego	4	5	1	0	0	0	0	2	3
Otsego	3	6	0	2	0	0	0	5	7
Putnam	2	9	4	6	0	0	0	30	40
Rensselaer	3	3	6	10	0	0	0	11	27
Rockland	2	9	43	50	0	0	1	130	224
St. Lawrence	3	4	0	3	0	0	0	25	28
Saratoga	3	4	5	1	0	0	0	39	45
Schenectady	3	4	21	22	1	0	0	36	80
Schoharie	3	3	0	3	0	0	0	9	12
Schuyler	3	6	2	0	0	0	0	1	3
Seneca	4	7	0	1	0	0	0	3	4
Steuben	4	7	3	1	0	0	0	21	25
Suffolk	2	10	830	27	0	0	0	39	896
Sullivan	3	3	1	0	0	0	0	2	3
Tioga	3	6	0	0	0	0	0	2	2
Tompkins	3	6	1	0	0	0	0	4	5
Ulster	3	3	1	2	0	0	0	41	44
Warren	3	4	2	0	0	0	0	13	15
Washington	3	4	0	0	0	0	0	4	4
Wayne	4	7	3	2	0	0	0	8	13
Westchester	2	9	138	101	0	0	0	311	550
Wyoming	4	8	0	0	0	0	0	4	4
Yates	4	7	0	1	0	0	0	3	4
Total District		3	22	20	0	0	0	106	148
Total District		4	40	34	1	0	0	157	232
Total District		5	1	2	0	0	0	8	11
Total District		6	5	13	0	0	0	26	44
Total District		7	10	8	0	0	0	56	74
Total District		8	4	11	0	0	0	68	83
Total District		9	282	208	1	0	1	695	1,187
Total District		10	1,621	529	2	0	0	66	2,218
Total Outside NYC			1,985	825	4	0	1	1,182	3,997

Table 34

THE COUNTY COURTS – CIVIL TERMS

Actions Disposed of by Type and by County, District and Region

December 31, 1979 through December 28, 1980

			Tort						
County and Region	Dept.	Dist.	Motor Vehicle	Other Tort	Medical Mal-practice	Tax Certiorari	Condem-nation	All Other	Total
Albany	3	3	14	11	1	0	0	47	73
Allegany	4	8	1	2	1	0	0	3	7
Broome	3	6	0	0	0	0	0	1	1
Cattaraugus	4	8	0	0	0	0	0	13	13
Cayuga	4	7	1	2	0	0	0	12	15
Chautauqua	4	8	0	3	0	0	0	17	20
Chemung	3	6	0	1	0	0	0	4	5
Chenango	3	6	0	0	0	0	0	9	9
Clinton	3	4	0	0	0	0	0	4	4
Columbia	3	3	2	0	0	0	0	3	5
Cortland	3	6	0	0	0	0	0	1	1
Delaware	3	6	0	0	0	0	0	5	5
Dutchess	2	9	29	19	0	0	0	130	178
Erie	4	8	2	12	0	0	0	29	43
Essex	3	4	1	0	0	0	0	5	6
Franklin	3	4	1	0	0	0	0	7	8
Fulton	3	4	5	4	0	0	0	12	21
Genesee	4	8	0	0	0	0	3	7	10
Greene	3	3	2	0	0	0	0	14	16
Hamilton	3	4	0	0	0	0	0	1	1
Herkimer	4	5	0	2	0	0	0	7	9
Jefferson	4	5	0	1	0	0	0	1	2
Lewis	4	5	0	0	0	0	0	3	3
Livingston	4	7	2	2	0	0	0	10	14
Madison	3	6	3	11	0	0	0	0	14
Monroe	4	7	0	0	0	0	0	0	0
Montgomery	3	4	2	1	0	0	0	7	10
Nassau	2	10	592	321	3	0	0	31	947
Niagara	4	8	0	0	0	0	0	0	0
Oneida	4	5	0	0	0	0	0	0	0
Onondaga	4	5	0	2	0	0	0	2	8
Ontario	4	7	0	0	0	0	0	14	14
Orange	2	9	45	18	1	0	0	104	168
Orleans	4	8	0	1	0	0	0	0	1
Oswego	4	5	0	0	0	0	0	1	1
Otsego	3	6	1	0	0	0	0	5	6
Putnam	2	9	2	4	0	0	0	22	28
Rensselaer	3	3	23	7	0	0	0	50	80
Rockland	2	9	67	52	0	0	0	134	253
St. Lawrence	3	4	1	5	0	0	0	18	24
Saratoga	3	4	1	1	0	0	0	43	45
Schenectady	3	4	57	40	0	0	0	75	172
Schoharie	3	3	0	3	0	0	0	6	9
Schuyler	3	6	1	0	0	0	0	0	1
Seneca	4	7	0	0	0	0	0	5	5
Steuben	4	7	7	2	0	0	0	34	43
Suffolk	2	10	902	38	0	0	0	60	1.000
Sullivan	3	3	0	0	0	0	0	0	0
Tioga	3	6	0	1	0	0	0	4	5
Tompkins	3	6	1	0	0	0	0	5	6
Ulster	3	3	4	9	0	0	0	52	65
Warren	3	4	2	1	0	0	0	18	21
Washington	3	4	1	1	0	0	0	6	8
Wayne	4	7	1	1	0	0	0	5	7
Westchester	2	9	189	146	1	0	0	362	698
Wyoming	4	8	1	1	0	0	0	5	7
Yates	4	7	1	1	0	0	0	4	5
Total District		3	45	30	1	0	0	172	248
Total District		4	71	53	0	0	0	196	320
Total District		5	0	5	0	4	0	14	23
Total District		6	6	13	0	0	0	34	53
Total District		7	11	8	0	0	0	84	103
Total District		8	4	19	1	0	3	74	101
Total District		9	332	239	2	0	0	752	1.325
Total District		10	1.494	359	3	0	0	91	1.947
Total Outside NYC			1.963	726	7	4	3	1.417	4.120

Table 35

THE COUNTY COURT – CIVIL TERMS

Actions Disposed of by Stage and Nature and by County, District, and Region

December 31, 1979 through December 28, 1980

County and Region	Dept.	Dist.	Before Trial			During Trial		After Trial		Total Disposition
			Transferred	Marked/ Stricken	Disc. Withdrawn Settlements	Jury	Non-jury	Jury	Non-jury	
Albany	3	3	62	1	7	2	0	1	0	73
Allegany	4	8	2	3	2	2	0	0	0	7
Broome	3	6	1	0	0	0	0	0	0	1
Cattaraugus	4	8	0	2	10	0	0	1	0	13
Cayuga	4	7	0	0	2	3	2	3	5	15
Chautauqua	4	8	2	0	11	2	0	0	5	20
Chemung	3	6	2	3	0	0	0	0	0	5
Chenango	3	6	0	2	2	0	0	1	4	9
Clinton	3	4	1	2	1	0	0	0	0	4
Columbia	3	3	0	0	2	0	0	0	3	5
Cortland	3	6	0	1	0	0	0	0	0	1
Delaware	3	6	0	2	2	0	0	1	0	5
Dutchess	2	9	150	0	28	0	0	0	0	178
Erie	4	8	11	4	23	1	1	0	3	43
Essex	3	4	0	0	6	0	0	0	0	6
Franklin	3	4	0	1	5	0	0	0	2	8
Fulton	3	4	0	1	14	2	0	2	2	21
Genesee	4	8	0	0	8	0	0	2	0	10
Greene	3	3	0	2	13	0	0	1	0	16
Hamilton	3	4	0	0	0	0	0	0	1	1
Herkimer	4	5	2	3	3	0	0	0	1	9
Jefferson	4	5	2	0	0	0	0	0	0	2
Lewis	4	5	0	0	2	0	0	1	0	3
Livingston	4	7	3	0	8	0	0	1	2	14
Madison	3	6	1	1	9	1	0	0	2	14
Monroe	4	7	0	0	0	0	0	0	0	0
Montgomery	3	4	0	0	9	1	0	0	0	10
Nassau	2	10	60	50	761	33	2	33	8	947
Niagara	4	8	0	0	0	0	0	0	0	0
Oneida	4	5	0	0	0	0	0	0	0	0
Onondaga	4	5	0	0	2	1	0	1	4	8
Ontario	4	7	3	0	8	0	0	0	3	14
Orange	2	9	130	9	27	1	0	0	1	168
Orleans	4	8	0	0	1	0	0	0	0	1
Oswego	4	5	0	0	1	0	0	0	0	1
Otsego	3	6	0	0	4	0	0	0	2	6
Putnam	2	9	1	2	19	2	1	0	3	28
Rensselaer	3	3	78	1	1	0	0	0	0	80
Rockland	2	9	175	2	75	1	0	0	0	253
St. Lawrence	3	4	2	1	11	2	2	4	2	24
Saratoga	3	4	0	8	29	2	0	1	5	45
Schenectady	3	4	32	11	110	7	0	1	11	172
Schoharie	3	3	0	1	5	0	1	0	2	9
Schuyler	3	6	0	0	1	0	0	0	0	1
Seneca	4	7	0	0	1	0	1	1	2	5
Steuben	4	7	21	8	6	2	1	2	3	43
Suffolk	2	10	23	75	700	122	2	72	6	1,000
Sullivan	3	3	0	0	0	0	0	0	0	0
Tioga	3	6	0	1	1	0	0	0	3	5
Tompkins	3	6	0	1	5	0	0	0	0	6
Ulster	3	3	55	3	3	1	0	1	2	65
Warren	3	4	1	1	17	0	1	1	0	21
Washington	3	4	0	4	2	0	0	0	2	8
Wayne	4	7	2	1	4	0	0	0	0	7
Westchester	2	9	409	24	199	8	5	12	41	698
Wyoming	4	8	0	0	4	0	0	0	3	7
Yates	4	7	0	0	3	0	1	0	1	5
Total District		3	195	8	31	3	1	3	7	248
Total District		4	36	29	204	14	3	9	25	320
Total District		5	4	3	8	1	0	2	5	23
Total District		6	4	11	24	1	0	2	11	53
Total District		7	29	9	32	5	5	7	16	103
Total District		8	15	9	59	3	1	3	11	101
Total District		9	865	37	348	12	6	12	45	1,325
Total District		10	83	125	1,461	155	4	105	14	1,947
Total Outside NYC			1,231	231	2,167	194	20	143	134	4,120

Table 36

THE COUNTY COURT – CIVIL TERMS

Actions Received, Disposed and Changed in Pending and Projected Average Age and by County, District and Region

December 31, 1979 through December 28, 1980

County, District and Region	Dept.	Dist.	Total Received	Total Disposed	Ending Pending	Change in Pending		Projected Average Age (mos.)
						Actions	Percent	
Albany	3	3	44	73	9	-22	-70%	+3
Allegany	4	8	7	7	3	+0	+0%	+5
Broome	3	6	0	1	0	+0	+0%	+0
Cattaraugus	4	8	15	13	5	+2	+60%	+4
Cayuga	4	7	11	15	4	+3	+300%	+2
Chautauqua	4	8	17	20	7	-4	-30%	+5
Chemung	3	6	0	5	3	-5	-60%	+13
Chenango	3	6	7	9	0	-2	-100%	+1
Clinton	3	4	9	4	13	+5	+60%	+31
Columbia	3	3	10	5	44	+5	+10%	+100
Cortland	3	6	0	1	0	+0	+0%	+0
Delaware	3	6	8	5	5	+2	+60%	+10
Dutchess	2	9	222	178	119	+5	+0%	+8
Erie	4	8	27	43	24	+2	+0%	+6
Essex	3	4	4	6	1	-3	-70%	+5
Franklin	3	4	7	8	18	+0	+0%	+27
Fulton	3	4	24	21	28	+0	+0%	+16
Genesee	4	8	7	10	1	-2	-60%	+2
Greene	3	3	8	16	18	-13	-40%	+18
Hamilton	3	4	1	1	0	+0	+0%	+0
Herkimer	4	5	4	9	10	+1	+10%	+13
Jefferson	4	5	4	2	0	-34	-100%	+102
Lewis	4	5	0	3	0	-4	-100%	+8
Livingston	4	7	9	14	0	-3	-100%	+1
Madison	3	6	12	14	3	-2	-40%	+3
Monroe	4	7	0	0	0	+0	+0%	+0
Montgomery	3	4	15	10	30	+12	+60%	+29
Nassau	2	10	1,322	947	679	+369	+110%	+6
Niagara	4	8	0	0	0	+0	+0%	+0
Oneida	4	5	0	0	0	-26	-100%	+0
Onondaga	4	5	0	8	0	-3	-100%	+2
Ontario	4	7	8	14	4	-3	-40%	+4
Orange	2	9	151	168	121	-6	+0%	+8
Orleans	4	8	6	1	5	+4	+400%	+36
Oswego	4	5	3	1	3	+2	+200%	+24
Otsego	3	6	7	6	15	+1	+0%	+29
Putnam	2	9	40	28	27	+1	+0%	+11
Rensselaer	3	3	27	80	19	-52	-70%	+7
Rockland	2	9	224	253	62	-32	-30%	+4
St. Lawrence	3	4	28	24	15	+3	+20%	+7
Saratoga	3	4	45	45	45	+1	+0%	+11
Schenectady	3	4	80	172	85	-102	-50%	+9
Schoharie	3	3	12	9	10	+2	+20%	+12
Schuyler	3	6	3	1	2	+2	+0%	+12
Seneca	4	7	4	5	1	+0	+0%	+2
Steuben	4	7	25	43	4	-14	-70%	+3
Suffolk	2	10	896	1,000	65	-109	-60%	+1
Sullivan	3	3	3	0	20	+2	+10%	+0
Tioga	3	6	2	5	4	+0	+00%	+10
Tompkins	3	6	5	6	3	-2	-40%	+8
Ulster	3	3	44	65	27	-20	-40%	+7
Warren	3	4	15	21	7	-4	-30%	+5
Washington	3	4	4	8	6	-12	-60%	+18
Wayne	4	7	13	7	6	+5	+500%	+6
Westchester	2	9	550	698	116	-148	-50%	+3
Wyoming	4	8	4	7	4	-4	-50%	+10
Yates	4	7	4	5	0	-1	-100%	+1
Total District		3	148	248	147	-98	-40%	+9
Total District		4	232	320	248	-100	-28%	+11
Total District		5	11	23	13	-64	-83%	+23
Total District		6	44	53	35	-6	-14%	+9
Total District		7	74	103	19	-13	-40%	+3
Total District		8	83	101	49	-2	-3%	+6
Total District		9	1,187	1,125	445	-180	-28%	+5
Total District		10	2,218	1,947	744	+260	+53%	+4
Total Outside NYC			3,997	4,120	1,700	-203	-10%	+5

Table 37

THE CIVIL COURT OF THE CITY OF NEW YORK

Actions and Special Proceedings Received[1] by Type and County

December 31, 1979 through December 28, 1980

	Civil Actions Parts				Housing Part										
	Actions				Actions and Special Proceedings to:										
County	Tort	Commercial	Equity	Total	Impose Penalties	Recover Costs	Enforce Liens	Issue Injunctions	Appoint Receiver	Remove Violations of Record	Compel Compliance	Article 19 Proceedings	Article 7a Proceedings	Total	Grand Total
Bronx[2]	2,201	1,001	...	3,202	...	...	...	...	...	...	1,561	...	81	1,642	4,844
Kings[2]	6,245	4,313	...	10,558	455	173	...	...	...	...	831	...	29	1,488	12,046
New York[2]	7,027	6,376	...	13,403	4	9	...	...	...	2	838	...	105	958	14,361
Queens[2]	5,783	2,750	...	8,533	55	...	...	...	2	2	716	...	4	779	9,312
Richmond	437	697	...	1,134	...	...	...	...	...	...	38	...	3	41	1,175
Total New York City	21,693	15,137	...	36,830	514	182	...	...	2	4	3,984	...	222	4,908	41,738

[1] Total of new actions and special proceedings plus restorations plus transfers from other courts plus and/or minus transfers within court.

[2] Arbitration Program data not included; for these statistics see chapter 4.

Table 38

THE CIVIL COURT OF THE CITY OF NEW YORK

Actions and Special Proceedings Disposed by Type and County

December 31, 1979 through December 28, 1980

	Civil Actions Parts				Housing Part										
	Actions				Actions and Special Proceedings to:										
County	Tort	Commercial	Equity	Total	Impose Penalties	Recover Costs	Enforce Liens	Issue Injunctions	Appoint Receiver	Remove Violations of Record	Compel Compliance	Article 19 Proceedings	Article 7a Proceedings	Total	Grand Total
Bronx[1]	2,291	1,042	...	3,333	...	...	...	...	...	...	1,696	...	36	1,732	5,065
Kings[1]	8,650	3,997	...	12,647	371	101	...	...	...	...	313	...	56	841	13,488
New York[1]	9,506	7,073	...	16,579	73	15	...	1	...	2	536	2	140	769	17,348
Queens[1]	7,990	3,127	...	11,117	55	...	...	...	2	2	693	...	5	757	11,874
Richmond	333	700	...	1,033	...	...	...	...	...	...	37	...	3	40	1,073
Total New York City	28,770	15,939	...	44,709	499	116	...	1	2	4	3,275	2	240	4,139	48,848

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[1] Arbitration Program data not included; for these statistics see chapter 4.

Table 39

THE CIVIL COURT OF THE CITY OF NEW YORK

Actions and Special Proceedings Disposed of by Stage and Nature and by County

December 31, 1979 through December 28, 1980

A. CIVIL ACTION PARTS

County	Before Trial				During Trial		After Trial		Interim Dispositions Disagreement or Mistrial	Adjustments by Court	Total
	Settle, Discontinued or Dismissed	Default Judgment (Inquest)	Marked off Calendar[1]	Consent Judgment	Settled or Discontinued	Dismissed	Decision of Court	Verdict of Jury			
Bronx[2]	2,286	550	319	...	46	8	87	31	6	...	3,333
Kings[2]	8,952	1,457	1,242	7	428	28	264	234	35	...	12,647
New York[2]	10,632	2,040	2,654	8	345	36	623	203	38	...	16,579
Queens[2]	5,726	1,102	3,792	3	94	16	231	125	28	...	11,117
Richmond	677	192	79	...	16	4	37	27	1	...	1,033
Total New York City	28,273	5,341	8,086	18	929	92	1,242	620	108	...	44,709

[1] Includes 3 cases that went to the military reserve calendar.

[2] Arbitration Program data not included; for these statistics see Chapter 4.

B. HOUSING PART

County	Before Trial				During Trial		After Trial		Interim Dispositions Disagreement or Mistrial	Adjustments by Court	Total
	Settle, Discontinued or Dismissed	Default Judgment (Inquest)	Marked off Calendar	Consent Judgment	Settled or Discontinued	Dismissed	Decision of Court	Verdict of Jury			
Bronx	1,308	64	55	...	...	...	305	...	...	...	1,732
Kings	444	186	6	21	29	9	146	...	...	...	841
New York	623	144	...	...	...	...	2	...	...	...	769
Queens	554	194	6	...	1	...	2	...	...	...	757
Richmond	23	5	...	...	...	...	12	...	...	...	40
Total New York City	2,952	593	67	21	30	9	467	...	...	...	4,139

Table 40

THE CIVIL COURT OF THE CITY OF NEW YORK

Actions and Special Proceedings Received, Disposed and Change in Pending and Projected Average Age by Part and by County

December 31, 1979 through December 28, 1980

County	Beginning Pending			Received[2]			Disposed			Adjustments by Court		
	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total
Bronx[1]	1,401	300	1,701	3,202	1,642	4,844	3,333	1,732	5,065	...	...	...
Kings[1]	6,073	914	6,987	10,558	1,488	12,046	12,647	841	13,488	...	...	...
New York[1]	6,358	575	6,933	13,403	958	14,361	16,579	769	17,348	+1,278	-559	+719
Queens[1]	4,109	16	4,125	8,533	779	9,312	11,117	757	11,874	...	...	...
Richmond	487	0	487	1,134	41	1,175	1,033	40	1,073	...	...	...
Total New York City	18,428	1,805	20,233	36,830	4,908	41,738	44,709	4,139	48,848	+1,278	-559	+719

County	Ending Pending[3]			Change in Pending						Projected Avg. Age (mos.)
				Number			Percent			
	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	Civil Action Parts	Housing Part	Total	
Bronx	1,270	210	1,480	-221	-90	-221	-9.4	-30.0	-13.0	4.8
Kings	3,984	1,561	5,545	-2,089	+647	-1,442	-34.4	+70.8	-20.6	4.8
New York	4,460	205	4,665	-1,898	-370	-2,268	-29.9	-64.3	-32.7	3.9
Queens	1,525	38	1,563	-2,584	+22	-2,562	-62.9	+137.5	-62.1	3.0
Richmond	588	1	589	+101	+1	+102	+20.7	...	+20.9	6.2
Total New York City	11,827	2,015	13,842	-6,601	+210	-6,391	-35.8	+11.6	-31.6	4.1

[1] Arbitration Program data not included; for these statistics see Chapter 4.

[2] Total of new actions and special proceedings plus restorations plus transfers from other Courts plus and/or minus transfers within Court.

[3] The ending pending actions of the Civil Actions Parts consisted of 4,275 jury and 7,552 non-jury; the ending pending actions and special proceedings of the Housing Part were all non-jury.

Table 41

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Received[1] by Type

December 31, 1979 through December 28, 1980

County	Housing Part			Non-Housing Part			Grand Total		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	22	26,737	26,759	4	411	415	26	27,148	27,174
Kings	147	35,176	35,323	1	644	645	148	35,820	35,968
New York	288	25,754	26,042	114	4,104	4,218	402	29,858	30,260
Queens	9	12,148	12,157	2	512	514	11	12,660	12,671
Richmond	...	1,116	1,116	...	50	50	...	1,166	1,166
Total New York City	466	100,931	101,397	121	5,721	5,842	587	106,652	107,239

[1] Total of new summary proceedings plus restorations plus and minus transfers within court. There were an additional 306,791 petitions filed in which no answer was filed. Of the total about 40 percent resulted in the clerk entering default judgments for which warrants were issued.

Table 42

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Disposed by Type

December 31, 1979 through December 28, 1980

County	Housing Part			Non-Housing Part			Grand Total		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	17	26,289	26,306	3	493	496	20	26,782	26,802
Kings	32	34,782	34,814	3	649	652	35	35,431	35,466
New York	135	26,232	26,367	119	3,586	3,705	254	29,818	30,072
Queens	7	12,010	12,017	4	515	519	11	12,525	12,536
Richmond	...	1,124	1,124	...	46	46	...	1,170	1,170
Total New York City	191	100,437	100,628	129	[illegible],289	5,418	320	105,726	106,046

Table 43

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Disposed of by Stage and Nature and by County

December 31, 1979 through December 28, 1980

County	Before Trial					During Trial		After Trial		Interim Dispositions		
	Settled, Discontinued of Dismissed	Default-No Inquest	Inquest by Court	Marked off Calendar	Referred to Referee	Settled or Discontinued	Dismissed	Decision of Court	Verdict of Jury	Disagreement or Mistrial	Adjustments by Court	Total
Bronx	18,299	5,784	253	361	...	1	3	2,096	5	...	...	26,802
Kings	21,988	7,208	1,229	26	...	1,271	107	3,622	8	7	...	35,466
New York	22,786	4,502	980	310	...	115	45	1,311	32	9	...	30,072
Queens	9,227	1,702	650	36	...	788	4	126	2	1	...	12,536
Richmond	439	149	42	5	...	28	1	504	...	2	...	1,170
Total New York City	72,721	19,345	3,154	738	...	2,203	160	7,659	47	19	...	106,046

Table 44

THE CIVIL COURT OF THE CITY OF NEW YORK
Summary Proceedings Received, Disposed and Change in Pending by Calendar and by County

December 31, 1979 through December 28, 1980

County	Beginning Pending			Received[1]			Disposed			Adjustment by Court		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	0	758	758	26	27,148	27,174	20	26,782	26,802	...	...	...
Kings	154	578	732	148	35,820	35,968	35	35,431	35,466	...	...	...
New York	315	2,646	2,961	402	29,858	30,260	254	29,818	30,072	-289	-359	-648
Queens	5	142	147	11	12,660	12,671	11	12,525	12,536	...	...	...
Richmond	0	67	67	0	1,166	1,166	0	1,170	1,170	...	...	...
Total New York City	474	4,191	4,665	587	106,652	107,239	320	105,726	106,046	-289	-359	-648

County	Ending Pending[2]			Change in Pending					
				Number			Percent		
	Jury	Non-Jury	Total	Jury	Non-Jury	Total	Jury	Non-Jury	Total
Bronx	6	1,124	1,130	+6	+366	+372	...	+48.3	+49.1
Kings	267	967	1,234	+113	+389	+502	+73.4	+67.3	+68.6
New York	174	2,327	2,501	- 141	-319	-460	-44.8	-12.1	-15.5
Queens	5	277	282	0	+135	+135	0	+95.1	+91.8
Richmond	0	63	63	0	- 4	- 4	0	- 6.0	- 6.0
Total New York City	452	4,758	5,210	- 22	+567	+545	- 4.6	+13.5	+11.7

[1] Total of new summary proceedings plus restorations plus and/or minus transfers within the court. There were an additional 306,791 petitions filed in which no answer was filed. Of the total number of new summary proceedings about 40 percent resulted in the clerk entering default judgments for which warrants were issued.

[2] The ending pending jury proceedings consisted of 390 Housing Part and 62 Non-Housing; the ending pending non-jury summary proceedings were 3,849 Housing Part and 909 Non-Housing.

Table 45

THE CIVIL COURT OF THE CITY OF NEW YORK
SPECIAL TERM PART I

Dispositions of Contested Motions by Nature and by Type

December 31, 1979 through December 28, 1980

Type of Motion	Total on Calendar	Ad-journed	With-drawn or Marked off Calendar	Granted	Denied
1. Summary judgment	6,691	2,296	524	2,839	1,032
2. Judgment on pleadings	1,399	445	162	573	219
3. Bring in additional parties	737	167	130	299	141
4. Examination before trial	6,098	2,304	455	2,406	933
5. Bills of particulars	11,789	2,620	1,180	6,813	1,176
6. Security for costs	320	86	50	144	40
7. Dismiss for lack of prosecution	2,855	1,117	286	873	579
8. Preference	24	8	1	13	2
9. Change of venue	338	101	51	125	61
10. Interpleader	119	25	30	50	14
11. Discontinue	244	81	37	107	19
12. Stay	383	93	57	124	109
13. Consolidate	1,996	711	167	878	240
14. Re-argue	536	157	53	251	75
15. Restore	5,111	1,333	224	3,110	444
16. Open default	4,108	1,050	289	2,455	314
17. Vacate notice of examination before trial	597	111	104	301	81
18. Vacate subpoena or order in enforcement proceedings	54	28	14	9	3
19. Appoint receiver	56	18	8	18	12
20. Direct payments out of income	203	30	52	84	37
21. Direct garnishee to turn over funds	656	157	59	363	77
22. Miscellaneous	11,181	3,859	1,445	4,503	1,374
Total New York City	55,495	16,797	5,378	26,338	6,982

Table 46
THE CIVIL COURT OF THE CITY OF NEW YORK
SPECIAL TERM PART II
Ex Parte Orders by County and by Type

December 31, 1979 through December 28, 1980

Type of Order	Bronx	Kings	New York	Queens	Richmond	Total N.Y.C.
1. Orders to show cause signed	2,135	3,182	9,770	1,623	680	17,390
2. Action for recovery of a chattel	4,423	14,850	9,962	75	12	29,322
3. Orders for leave to compromise	689	1,175	328	681	253	3,126
4. Enforcement proceedings	217	193	1,089	436	42	1,977
5. Bonds and undertakings	4,527	14,853	10,526	76	30	30,012
6. Contempt motions	55	160	348	387	32	982
7. Hearings on sufficiency of service	121	221	997	63	63	1,427
8. Change of name	116	562	398	223	39	1,338
9. Orders of attachment issued	...	3	434	1	22	460
10. Warrants of seizure issued	18	...	553	75	...	646
11. Orders of arrest issued	1	...	...	...	...	1
12. Receivers appointed	...	...	3	...	...	3
13. Miscellaneous orders	8,661	5,220	46,221	9,339	1,051	70,492
Total *Ex Parte* Orders	20,963	40,419	80,629	12,979	2,186	157,176

Table 47
THE DISTRICT COURTS AND THE COURTS IN CITIES OUTSIDE THE CITY OF NEW YORK
CIVIL TERMS
Actions, Summary Proceedings and Small Claims Received and Disposed by District and Region

District and Region	Dispositions							Mis-trials	Small Claims	
					Trials					
	Dis-continued	Dis-missed	De-fault	Other	For Plain-tiff	For Defen-dant	Total		In	Out
District 3	1,228	499	1,659	853	1,601	61	5,901	3	1,985	2,483
District 4	197	154	353	39	41	4	788	4	1,235	1,019
District 5	153	465	914	1,850	11	4	3,397	12	3,634	3,547
District 6	510	99	214	28	76	3	930	11	1,549	1,458
District 7	146	272	2,025	1,190	110	6	3,749	0	2,894	2,488
District 8	801	80	3,895	1,586	435	53	6,850	12	6,058	5,973
District 9	2,623	568	7,176	1,101	699	68	12,235	42	4,883	4,774
District 10	8,721	5,670	9,399	5,591	848	129	30,358	71	23,038	23,433
Total Outside of NYC	14,379	7,807	25,635	12,238	3,821	328	64,208	155	45,276	45,175

NOTE: Data incomplete from Cohoes, and Kingston in the Third District; Johnstown, and Schenectady in the Fourth District; Fulton, Oswego, and Utica in the Fifth District; Binghamton, Cortland and Elmira in the Sixth District; and Lockport in the Eighth District.

No reporting from Saratoga Springs in the Fourth District, Watertown in the Fifth District, and Olean in the Eighth District.

Table 48

THE SURROGATE'S COURTS

Proceedings by Type, Judicial Department, District, and County

January 1, 1980 through December 31, 1980

Department, District and County	Probate Proceedings								Administration Proceedings		Accounting Proceedings[1]			Guardianship Proceedings		Adoption Proceedings	Other Proceedings	
	Petitions for probate of wills	Wills admitted to probate where no objections filed	Wills rejected after inquiry (1408 SCPA)	Wills Admitted Where Objections Filed			Wills rejected after trial of objections	Letters issued upon wills	Letters of administration granted	Affidavits filed for settlement of small estates	Voluntary accountings filed	Petitions for compulsory accountings	Decrees on accounting[2]	Letters of guardianship granted[3]	Contested guardianship trials	Orders of adoptions granted[4]	Orders of compromise in death actions	Other contested matters tried
				Objections withdrawn, settled or dismissed		After trial of objections												
				Before trial	During trial													
FIRST DEPT.																		
1. Bronx	1.674	1.190	0	29	1	1	1	1.311	898	391	426	33	251	405	14	166	44	98
New York	4.190	2.953	16	15	0	0	0	4.154	1.524	527	915	104	719	323	0	167	103	7
Total 1st Department	5.864	4.143	16	44	1	1	1	5.465	2.422	918	1.341	137	970	728	14	333	147	105
SECOND DEPT.																		
2. Kings	2.439	2.406	9	31	0	0	0	2.861	1.711	856	478	119	161	1.129	0	325	360	0
Richmond	541	484	0	6	2	1	2	514	226	169	66	16	30	182	2	103	23	55
9. Dutchess	560	510	0	1	0	0	2	564	144	126	183	15	96	70	0	10	32	28
Orange	562	604	0	0	0	0	0	676	207	91	302	5	51	54	3	10	9	0
Putnam	141	119	0	1	0	1	0	155	61	21	9	0	17	30	0	0	5	26
Rockland	371	381	0	4	1	1	0	427	129	83	30	4	15	131	1	58	20	0
Westchester	2.139	2.182	1	17	4	1	0	2.499	540	308	392	52	231	273	0	57	50	1
10. Nassau	3,754	2.801	0	20	0	0	0	3.158	773	465	2.268	40	251	915	0	421	115	148
Suffolk	2.181	2.101	0	12	0	3	0	2.241	701	614	142	27	158	345	2	209	91	76
11. Queens	3,161	3.242	0	12	8	23	0	3.684	1.448	860	342	65	182	368	0	168	142	0
Total 2nd Department	15,849	14,830	10	104	15	30	4	16.779	5.940	3.593	4.212	343	1.192	3.497	8	1.361	847	334
THIRD DEPT.																		
3. Albany	787	704	0	1	0	0	0	791	235	214	214	6	152	87	0	57	11	0
Columbia	187	189	0	0	0	0	0	194	49	45	36	1	27	27	0	2	8	3
Greene	138	141	0	3	0	1	0	167	39	46	47	4	17	13	0	0	4	0
Rensselaer	358	357	0	0	0	2	0	431	131	163	26	6	72	38	1	46	14	19
Schoharie	85	85	0	0	0	0	0	85	23	25	15	0	16	8	0	0	4	1
Sullivan	285	247	0	10	1	0	0	276	94	35	44	23	28	23	0	0	18	0
Ulster	420	415	0	0	0	0	0	427	128	105	97	3	84	52	0	26	14	0
4. Clinton	158	158	0	1	0	0	0	171	40	53	54	3	22	18	0	54	3	1
Essex	126	115	0	0	0	0	0	118	39	20	25	1	22	9	0	0	2	0
Franklin	112	125	0	0	0	0	0	125	40	30	85	0	28	11	0	22	4	1
Fulton	179	174	0	0	0	0	0	178	48	27	31	5	22	9	0	0	3	0
Hamilton	23	23	0	0	0	0	0	26	4	4	13	1	7	1	0	2	2	1
Montgomery	199	198	0	0	0	0	0	205	63	29	63	1	54	3	0	8	2	0
St. Lawrence	256	212	0	0	0	0	0	257	61	91	107	1	67	37	0	74	7	3
Saratoga	296	288	0	1	2	1	0	308	92	70	105	13	91	50	0	69	17	7
Schenectady	459	466	0	13	0	0	0	540	141	113	114	11	96	45	0	22	3	39
Warren	195	190	1	2	0	1	0	210	38	34	155	3	135	21	0	1	2	5
Washington	189	161	0	0	0	0	0	164	40	33	19	0	30	17	0	10	5	0
6. Broome	535	527	0	2	0	0	0	600	122	85	144	3	108	41	0	0	14	0
Chemung	302	293	0	0	0	0	0	312	63	75	95	3	93	14	0	0	2	2
Chenango	159	159	0	0	0	0	0	159	40	25	24	0	26	14	0	0	9	2
Cortland	130	130	0	0	0	0	0	130	26	24	28	0	28	15	0	0	0	0
Delaware	178	175	0	1	0	1	0	188	40	27	41	6	37	11	0	0	1	0
Madison	182	187	0	0	0	0	0	192	36	19	44	0	31	19	0	0	4	3
Otsego	212	207	0	0	0	0	0	237	58	42	72	0	57	6	0	12	7	7
Schuyler	59	51	0	0	0	0	0	63	14	15	19	1	14	0	0	0	0	0
Tioga	111	111	0	0	0	0	0	116	25	25	19	1	20	13	0	0	1	0
Tompkins	282	223	0	0	0	0	0	223	34	44	263	0	28	7	0	1	2	0
Total 3rd Department	6.602	6.311	1	34	3	6	0	6.893	1.763	1.518	1.999	96	1.412	609	1	406	163	94
FOURTH DEPT.																		
5. Herkimer	245	255	0	0	0	0	0	275	48	40	81	1	80	18	0	0	4	0
Jefferson	251	222	0	0	0	0	0	265	53	20	48	2	26	16	0	0	3	7
Lewis	95	89	0	0	0	0	0	97	17	13	42	1	17	4	0	0	2	1
Oneida	814	828	0	2	1	1	0	868	204	77	128	2	87	62	0	118	20	8
Onondaga	1.372	1.364	0	0	0	0	0	1.514	354	278	374	10	266	155	0	0	66	83
Oswego	261	264	0	0	0	0	0	287	72	41	134	4	100	30	0	10	13	12
7. Cayuga	301	295	0	0	0	0	0	299	65	98	178	18	124	24	2	43	12	15
Livingston	135	138	0	0	0	0	0	142	20	103	25	1	30	21	0	0	2	0
Monroe	2.187	2.088	0	16	0	0	0	2.482	311	509	557	10	229	569	17	118	25	54
Ontario	392	368	0	0	0	0	0	379	115	110	83	2	70	33	0	19	13	0
Seneca	123	119	0	0	0	0	0	120	25	18	40	1	22	6	0	0	1	2
Steuben	358	345	0	5	6	1	0	366	83	55	101	1	64	25	2	15	9	27
Wayne	280	269	0	0	0	0	0	284	59	48	36	0	69	29	0	81	10	0
Yates	97	97	0	0	0	0	0	95	12	8	44	4	40	5	0	0	0	0
8. Allegany	185	185	0	0	0	0	0	185	62	32	89	0	89	20	0	0	0	0
Cattaraugus	288	288	0	1	0	0	0	296	79	40	132	0	132	24	0	1	17	8
Chautauqua	550	548	0	2	0	0	0	566	132	132	111	1	97	30	0	86	7	6
Erie	3.561	3.081	16	12	21	1	6	3.249	904	1.233	1.227	25	741	651	23	354	112	278
Genesee	205	201	0	1	0	0	0	217	44	25	45	0	46	9	0	26	3	2
Niagara	739	679	0	1	3	0	0	683	192	125	369	8	374	64	0	0	11	5
Orleans	128	126	0	0	0	0	0	130	26	14	21	3	14	8	0	0	1	0
Wyoming	168	171	0	0	0	0	0	182	40	25	49	4	44	18	0	1	6	3
Total 4th Department	12.735	12.020	16	40	31	3	6	12.981	2.917	3.044	3.914	98	2.761	1.821	44	872	337	511
Total State	41.050	37.304	43	222	50	40	11	42.118	13.042	9.073	11.466	674	6.335	6.655	67	2.972	1.494	1.044

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[1] Includes accouatings filed in small estates.

[2] There were 5.720 where no objections were filed and 615 where objections were withdrawn. settled or dismissed — 380 before trial. 95 during trial and 140 after trial.

[3] In addition. 13 letters of guardianship were denied.

[4] In addition. 67 petitions for adoption were denied. dismissed or withdrawn

Table 49
(*Partial*)

FAMILY COURT
Original and Supplementary Petitions, Petitions Added, Deducted and Actively Pending by Type of Proceeding*

December 31, 1979 through December 28, 1980

New York City

Original Case Prefix	Type of Proceeding	Petitions Added During Period	Petitions Deducted During Period			Petitions Actively Pending At End of Period
			Withdrawn or Dismissed	Other Deductions	Total	
B	Permanent Neglect	778	108	1,017	1,125	241
N	Child Protective - Neglect	2,728	1,019	4,988	6,007	1,098
N	Child Protective - Abuse	784	186	714	900	391
D	Juvenile Delinquency	11,121	5,260	10,250	15,510	2,738
S	Persons in Need of Supervision	5,022	2,360	3,735	6,095	777
A	Adoption	694	27	141	168	390
G	Guardianship	249	56	171	227	102
R	Supreme Court Referral	50	13	35	48	74
V	Custody of Minors	4,963	1,703	2,446	4,149	705
K	Foster Care Review	2,189	171	1,950	2,121	550
L	Approval Foster Care Placement	3,547	446	4,072	4,518	307
H	Physically Handicapped	2,653	71	1,973	2,044	341
Q	Mental Defective	18	0	13	13	0
O	Family Offense	8,976	4,655	3,480	8,135	669
P	Paternity (Non-ADC)	3,479	1,753	4,389	6,142	597
P	Paternity (ADC)	9,770	4,503	5,313	9,816	1,685
F	Support (Non-ADC)	6,020	3,132	4,730	7,862	795
F	Support (ADC)	5,283	1,917	2,171	4,088	728
U	Uniform Support of Dependent's Law	7,142	2,849	3,279	6,128	1,214
M	Consent to Marry	213	12	267	279	1
–	Supplementary (Viols./Mods. of Orders/Disps.)	18,369	6,123	15,418	21,541	2,488
C,W	Other	677	442	473	915	689
	Total	94,725	36,806	71,025	107,831	16,580

Upstate

Original Case Prefix	Type of Proceeding	Petitions Added During Period	Petitions Deducted During Period			Petitions Actively Pending At End of Period
			Withdrawn or Dismissed	Other Deductions	Total	
B	Permanent Neglect	634	271	323	594	291
N	Child Protective - Neglect	4,059	825	3,653	4,278	1,209
N	Child Protective - Abuse	806	118	600	718	351
D	Juvenile Delinquency	13,418	3,686	12,183	15,869	3.258
S	Persons in Need of Supervision	7,811	2,003	8,077	10.080	1,791
A	Adoption	3,031	72	2,675	2,747	1,009
G	Guardianship	370	79	349	428	148
R	Supreme Court Referral	1,390	250	1,040	1,290	236
V	Custody of Minors	9,682	2,950	5,355	8,305	1,967
K	Foster Care Review	2,839	132	2,446	2,578	596
L	Approval Foster Care Placement	3,884	109	3,369	3,478	665
H	Physically Handicapped	13,811	213	11,802	12,015	1,419
Q	Mental Defective	13	4	10	14	3
O	Family Offense	12,861	6,428	7,257	13,685	1,591
P	Paternity (Non-ADC)	3,052	1,177	2,771	3,948	1,001
P	Paternity (ADC)	12,144	2,761	9,227	11,988	2,682
F	Support (Non-ADC)	14,648	6,050	8,649	14,699	3,283
F	Support (ADC)	12,123	3,840	8,230	12,070	1,725
U	Uniform Support of Dependent's Law	18,411	2,900	13,186	16,086	2,433
M	Consent to Marry	174	15	85	100	9
–	Supplementary (Viols./Mods. of Orders/Disps.)	94,916	18,529	67,359	85,888	14,395
C,W	Other	3,232	276	1,800	2,076	1,786
	Total	233,309	52,688	170,446	233,134	41,848

Note: All footnotes appear at the end of this table (see next page).

Table 49

(Concluded)

FAMILY COURT

Original and Supplementary Petitions, Petitions Added, Deducted and Actively Pending by Type of Proceeding*

December 31, 1979 through December 28, 1980

New York State

Original Case Prefix	Type of Proceeding	Petitions Added During Period	Petitions Deducted During Period: Withdrawn or Dismissed	Petitions Deducted During Period: Other Deductions	Petitions Deducted During Period: Total	Petitions Actively Pending At End of Period
B	Permanent Neglect	1,412	379	1,340	1,719	532
N	Child Protective - Neglect	6,787	1,844	8,641	10,485	2,307
N	Child Protective - Abuse	1,590	304	1,314	1,618	742
D	Juvenile Delinquency	24,539	8,946	22,433	31,379	5,996
S	Persons in Need of Supervision	12,833	4,363	11,812	16,175	2,568
A	Adoption	3,725	99	2,816	2,915	1,399
G	Guardianship	619	135	520	665	250
R	Supreme Court Referral	1,440	263	1,075	1,338	310
V	Custody of Minors	14,645	4,653	7,801	12,454	2,672
K	Foster Care Review	5,028	303	4,396	4,699	1,146
L	Approval Foster Care Placement	7,431	555	7,441	7,996	972
H	Physically Handicapped	16,464	284	13,775	14,059	1,760
Q	Mental Defective	31	4	23	27	3
O	Family Offense	21,837	11,083	10,737	21,820	2,260
P	Paternity (Non-ADC)	6,531	2,930	7,160	10,090	1,598
P	Paternity (ADC)	21,914	7,264	14,540	21,804	4,367
F	Support (Non-ADC)	20,668	9,182	13,379	22,561	4,078
F	Support (ADC)	17,406	5,757	10,401	16,158	2,453
U	Uniform Support of Dependent's Law	25,553	5,749	16,465	22,214	3,647
M	Consent to Marry	387	27	352	379	10
–	Supplementary (Viols./Mods. of Orders/Disps.)	113,285	24,652	82,777	107,4[illegible]	16,883
C,W	Other	[illegible]	[illegible]	2,273	2,991	2,475
	Total	328,034	89,494	241,471	330,965	58,428

*During 1980 a new statistical reporting procedure was tested in several localities throughout the state. While this procedure collected information concerning petitions returned to the active calendar and warrants returned or vacated (see "Other Inflow"), it does not provide deduction information by type of proceeding. The amounts shown for each type of proceeding for petitions withdrawn, dismissed and other deductions include for the test localities and estimate based on several sample weeks of court activity. This test involves the following counties: Genesee, Nassau, New York, New York Foster Care Review (city wide), Onondaga, Rensselaer, St. Lawrence, Westchester.

Table 50
FAMILY COURT
Court Findings in Child Protective Proceedings, by Sex

January 1, 1980 through December 31, 1980

Region County	Boys							Girls						
	Total	Court Findings at Dispositional Hearing				Court Findings Based on		Total	Court Findings at Dispositional Hearing				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	2,605	198	1,455	31	921	1,295	1,310	2,774	326	1,462	45	941	1,387	1,387
Total New York City	1,021	115	697	17	192	630	391	1,031	138	697	29	185	630	401
New York	290	35	215	5	35	203	87	213	18	162	3	30	148	65
Kings	193	31	136	9	17	143	50	241	43	167	21	10	177	64
Queens	253	33	120	1	99	104	149	275	54	113	1	107	113	162
Bronx	226	10	179	2	35	151	75	244	12	195	4	33	156	88
Richmond	59	6	47		6	29	30	58	11	42		5	36	22
Total Upstate	1,584	83	758	14	729	665	919	1,743	188	783	16	756	757	986
Albany	27	6	21			27		23	5	18			23	
Allegany	2		1		1	2		1		1				1
Broome	36	1	6		29	13	23	36	1	10		25	7	29
Cattaraugus	26		21		5	17	9	23	1	17		5	15	8
Cayuga														
Chautauqua	32		3		29	14	18	40		16		24	20	20
Chemung	30	3	24		3		30	30	4	18		8	2	28
Chenango	6		6			6		9	1	6		2	4	5
Clinton	12	1	9		2	12		12		10		2	10	2
Columbia	3		3				3	6	1	5			2	4
Cortland														
Delaware	27		16		11	14	13	21		8		13	8	13
Dutchess	39	5	25	1	8	27	12	23	5	8	1	9	14	9
Erie	285	8	156	1	120	138	147	333	22	165	1	145	170	163
Essex	2				2		2	8		1		7	1	7
Franklin	36		26		10	27	9	29		18		11	16	13
Fulton	10		4		6	2	8	12	1	4		7		12
Genesee	17		4		13	3	14	23		6		17	5	18
Greene	12		2		10	6	6	19		7		12	11	8
Hamilton														
Herkimer	4	1	3			2	2	4	1	2		1	2	2
Jefferson	20		4		16	2	18	27	1	5		21	4	23
Lewis	1		1			1		1		1			1	
Livingston	6	1	4		1	1	5	13	6	4	1	2	4	9
Madison	6		5		1	3	3	15	4	10		1	6	9
Monroe	210	30	63	2	115	96	114	231	45	69	3	114	117	114
Montgomery	9				9		9	7		1		6	1	6
Nassau	105		80	5	20	65	40	115	6	83	7	19	78	37
Niagara	40	2	9		29	4	36	66	4	24		38	14	52
Oneida	10		3		7	5	5	22	4	8		10	13	9
Onondaga	107	8	54		45	30	77	116	29	50		37	44	72
Ontario	25		25			8	17	34	3	26		5	18	16
Orange	13		9	1	3	8	5	12		4	1	7	7	5
Orleans	6		2		4		6	8		5		3	3	5
Oswego	2	1			1	1	1	2	1			1	1	1
Otsego	3		3			3		5		5			3	2
Putnam														
Rensselaer														
Rockland	13		3		10	3	10	12	3	5		4	9	3
St. Lawrence	17	1	14		2	16	1	7		5		2	5	2
Saratoga	15		4		11		15	24	3	6		15	1	23
Schenectady	39	3	27	3	6	8	31	41	3	25		13	8	33
Schoharie	15		9		6	7	8	21	1	15	1	4	8	13
Schuyler	2				2		2					1		1
Seneca	13				13	1	12	9		5		4	4	5
Steuben	27	3			24	16	11	15	2	1		12	10	
Suffolk	93	4	31		58	9	84	104	10	37		57	16	88
Sullivan	5				5	1	4	7	1	1		5		7
Tioga	12				12	3	9	9		1		8	4	5
Tompkins	9		2		7	1	8	8		5		3		8
Ulster	10		4		6	7	3	12	1	6	1	4	7	5
Warren	13	1	11		1	1	12	10	5	5				10
Washington	2		2			2		3		3			3	
Wayne	41	2	18	1	20	31	10	40	12	13		15	34	6
Westchester	80	2	41		37	22	58	82	2	35		45	24	58
Wyoming	9				9		9	12				12		12
Yates														

Table 51

FAMILY COURT

The Age of Children in Child Protective Proceedings Involving Child Abuse (Boys Only)
Child's Age When Petition Filed (Last Birthday)

January 1, 1980 through December 31, 1980

Region County	Total	Under 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16 or Over	Not Known
Total New York State	551	53	39	35	38	27	33	43	22	32	27	32	25	40	30	19	24	16	16
Total New York City	277	23	24	15	20	12	15	23	14	18	16	18	10	17	14	12	9	10	7
New York	79	14	10	7	6	3	6	5	3	3	5	6	1	3	4	1	1	1	...
Kings	55	2	2	3	4	2	1	3	4	6	3	4	2	2	5	4	2	2	4
Queens	77	2	6	2	4	2	4	9	4	7	6	1	5	8	3	3	5	6	...
Bronx	51	4	6	3	6	3	3	6	2	1	1	7	1	2	1	1	...	1	3
Richmond	15	1				2	1		1	1	1		1	2	1	3	1		
Total Upstate	274	30	15	20	18	15	18	20	8	14	11	14	15	23	16	7	15	6	9
Albany	6	1	1	1									1	1			1		
Allegany	2						2												
Broome	5			1					1					1	2				
Cattaraugus	1																1		
Cayuga																			
Chautauqua																			
Chemung	5	1										1		2		1			
Chenango																			
Clinton	3	1					1										1		
Columbia																			
Cortland																			
Delaware																			
Dutchess	11	1	1	3		1	2	2	1										
Erie	42	1	4	2	3	3	2	1	2	5	3	5	2	3	4		2		
Essex	1			1															
Franklin	1		1																
Fulton																			
Genesee	8			2		2	1	1								1	1		
Greene																			
Hamilton																			
Herkimer	1													1					
Jefferson	2											1					1		
Lewis																			
Livingston	3			1									1		1				
Madison																			
Monroe	64	6	1	2	7	4	2	5	1	6	3		5	6	4	3	4	2	3
Montgomery																			
Nassau	12	1						1		1			1	1				3	4
Niagara	6		1	1			2	1	1										
Oneida	1													1					
Onondaga	30	5	3	3	1	3			1	1	2	3		4	1	1	2		
Ontario	1											1							
Orange	7				2	2	1	1				1							
Orleans	1												1						
Oswego	1													1					
Otsego																			
Putnam																			
Rensselaer																			
Rockland	2						1	1											
St. Lawrence	1	1																	
Saratoga	2							1	1										
Schenectady	10	1		1	1		1	2			1		1		1				1
Schoharie	2	2																	
Schuyler																			
Seneca	9	3											2	2			2		
Steuben	8	3	2					1		1			1						
Suffolk	6						2				1				1	1		1	
Sullivan																			
Tioga																			
Tompkins	1	1																	
Ulster	1						1												
Warren	1	1																	
Washington																			
Wayne	5			1	1			1				1							1
Westchester	9	1		1	2			2			1				2				
Wyoming	3		1		1							1							
Yates																			

Table 52

FAMILY COURT

The Age of Children in Child Protective Proceedings Involving Child Abuse (Girls Only)

Child's Age When Petition Filed (Last Birthday)

January 1, 1980 through December 31, 1980

Region County	Total	Under 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16 or Over	Not Known
Total New York State	790	49	48	32	34	36	28	30	35	39	37	37	39	58	63	62	71	75	17
Total New York City	346	34	27	22	20	17	15	11	17	20	19	17	15	20	22	26	19	18	7
New York	61	11	8	5	3	5	2	1	3	3	3	3	4	3	1	3	1	2	
Kings	94	9	5	4	3	6	4	1	5	8	6	4	4	2	7	10	6	6	4
Queens	112	4	7	5	4	2	4	6	3	5	4	5	6	12	11	12	12	8	2
Bronx	64	8	4	8	10	4	5	3	5	3	4	2	1	3	1	1		1	1
Richmond	15	2	3						1	1	2	3			2			1	
Total Upstate	444	15	21	10	14	19	13	19	18	19	18	20	24	38	41	36	52	57	10
Albany	5							1						1	1		2		
Allegany	1					1													
Broome	6					1				1	1		2			1			
Cattaraugus	2																	2	
Cayuga																			
Chautauqua																			
Chemung	6		1		1		1					1					1	1	
Chenango	5														3		1	1	
Clinton	2																1	1	
Columbia	3		1			1								1					
Cortland																			
Delaware	1																	1	
Dutchess	6	1		1			2	2											
Erie	71		4	2	3	4	1	3	1	7	3	2	6	10	7	6	8	4	
Essex																			
Franklin																			
Fulton	4		1					1				1		1					
Genesee	9	2	1					1	1								1	2	1
Greene	3		1													1	1		
Hamilton																			
Herkimer	1																	1	
Jefferson	5								1	1				1	1		1		
Lewis																			
Livingston	7						1					1		1		2	2		
Madison	6	2						1	1								1	1	
Monroe	82	2	4	3	3	1		3	3	4	4	4	5	4	12	8	5	13	4
Montgomery	2		1														1		
Nassau	27		1		1	2			1		2	4	2	1	2	4		4	3
Niagara	10	1				2			1		1			1		2	2		
Oneida	6						1						1		1		2	1	
Onondaga	50	1		1	2	2	4	1	4	2	1	2	3	5	2	5	4	10	1
Ontario	6					1									2		1	2	
Orange	4		1		1				1						1				
Orleans																			
Oswego	1																1		
Otsego																			
Putnam																			
Rensselaer																			
Rockland	5	1				1	1			1							1		
St. Lawrence																			
Saratoga	12		1					1		1		1		2	3	1	2		
Schenectady	7		1							1	1		2	1	1				
Schoharie	6	1										1			2	1	1		
Schuyler																			
Seneca	6				1	1		1										3	
Steuben	6	1										1			2	1		1	
Suffolk	15	1		1	2	1		1	1	1						2	4	1	
Sullivan	2						1							1					
Tioga	3							1			1			1					
Tompkins	1								1										
Ulster	4	1				1						1					1		
Warren	5													1		1	1	2	
Washington																			
Wayne	16		2					1	2		2	1		4			2	2	
Westchester	20		1	2			1	1					2	2	1	1	5	3	1
Wyoming	5	1									2		1					1	
Yates																			

Table 53

FAMILY COURT

Reasons for Petitions in Child Protective Proceedings Involving Child Abuse (Boys Only)

January 1, 1980 through December 31, 1980

Region County	Total Reasons (Child Abuse Only)*	Reasons for Petitions													
		Child Abuse			Neglected Child										
		Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental, Emotional Or Physical Health	Inadequate Food, Shelter Or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Total New York State	266	138	78	50	43	8	2	6	2	4	7	2	7	...	...
Total New York City	174	97	60	17	25	4	2	5	2	4	6	2	5	...	...
New York	62	33	23	6	3	4	2	...	1	4	5	...	1	...	...
Kings	56	28	20	8	16	...	...	2	...	...	...	2	1	...	...
Queens	39	28	8	3	5	...	...	3	...	...	...	...	3	...	...
Bronx	11	2	9	...	1	...	...	...	1	...	1	...	...	...	...
Richmond	6	6	...	...	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	92	41	18	33	18	4	...	1	...	...	1	...	2	...	...
Albany	6	6	...	...	...	...	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	3	...	...	3	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	8	5	2	1	...	...	...	...	...	...	...	...	...	...	...
Erie	9	3	1	5	...	...	...	...	...	...	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	32	12	7	13	9	3	...	1	...	...	...	...	1	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	1	1	...	...	4	...	...	...	...	...	...	...	...	...	...
Niagara	2	...	2	...	...	...	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Onondaga	8	1	2	5	...	...	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orange	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schenectady	3	2	...	1	3	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	3	2	...	1	...	...	...	...	...	...	...	...	...	...	...
Suffolk	4	3	...	1	...	...	...	...	...	...	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Warren	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	2	...	...	2	1	1	...	...	...	...	...	...	...	...	...
Westchester	3	1	2	...	1	...	...	...	...	...	1	...	1	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*Due to the reporting of multiple reasons for petitions, the number of reasons exceed the number of petitions reported as initially disposed.

Table 54

FAMILY COURT

Reasons for Petitions in Child Protective Proceedings Involving Child Abuse (Girls Only)

January 1, 1980 through December 31, 1980

Region County	Total Reasons (Child Abuse Only)*	Reasons for Petitions													
		Child Abuse			Neglected Child										
		Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental, Emotional Or Physical Health	Inadequate Food, Shelter Or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Total New York State	419	152	72	195	61	9	5	14	2	2	9	12	6	...	2
Total New York City	213	110	59	44	36	5	4	12	2	2	9	10	6	...	2
New York	34	15	13	6	...	2	1	4	1	...	3	...	1	...	...
Kings	82	38	26	18	26	1	3	1	...	1	6	8	...	...	2
Queens	69	40	12	17	7	2	...	7	...	1	...	2	5	...	...
Bronx	17	7	8	2	3	...	...	...	1	...	...	...	...	...	...
Richmond	11	10	...	1	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	206	42	13	151	25	4	1	2	...	...	...	2	...	...	...
Albany	5	3	...	2	...	...	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	3	...	2	...	...	...	...	...	...	...	...	...	...	...
Chenango	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Clinton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	6	3	...	3	...	...	...	...	...	...	...	...	...	...	...
Erie	23	4	2	17	2	2	...	...	...	...	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Jefferson	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	7	3	...	4	...	...	...	...	...	...	...	...	...	...	...
Madison	4	...	...	4	...	...	...	...	...	...	...	...	...	...	...
Monroe	46	7	3	36	9	2	...	2	...	...	...	...	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	15	14	2	9	12	...	1	...	...	...	...	2	...	...	...
Niagara	4	1	...	3	...	...	...	...	...	...	...	...	...	...	...
Oneida	4	...	...	4	...	...	...	...	...	...	...	...	...	...	...
Onondaga	29	...	3	26	...	...	...	...	...	...	...	...	...	...	...
Ontario	3	1	...	2	1	...	...	...	...	...	...	...	...	...	...
Orange	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	3	2	...	1	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	3	...	...	3	...	...	...	...	...	...	...	...	...	...	...
Schenectady	3	2	...	1	...	...	...	...	...	...	...	...	...	...	...
Schoharie	2	1	...	1	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	2	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Suffolk	10	4	...	6	...	...	...	...	...	...	...	...	...	...	...
Sullivan	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	4	2	2	...	...	...	...	...	...	...	...	...	...	...	...
Warren	5	...	...	5	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	12	...	1	11	...	...	...	...	...	...	...	...	...	...	...
Westchester	2	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*Due to the reporting of multiple reasons for petitions, the number of reasons exceed the number of petitions reported as initially disposed.

Table 55
FAMILY COURT
Child Protective Proceedings Involving Child Abuse (Boys Only)
Types of Petitioners

January 1, 1980 through December 31, 1980

Region County	Total	Petition Originated By													
		Respondent's Parent	Respondent's Child	Respondent's Spouse or Former Spouse	Other Members of Respondent's Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Court's Motion)	Hospital (On Court's Motion)	Private Medical Doctor (On Court's Motion)	Other
Total New York State	551	1	2	2	...	4	...	2	498	5	36	1	...	...	...
Total New York City	277	...	1	...	..	3	...	1	234	5	32	1	...	...	...
New York	79	...	...	...	...	...	...	1	73	...	5	...	...	...	...
Kings	55	...	1	...	...	...	...	...	40	...	14	...	...	...	...
Queens	77	...	...	...	...	2	...	...	62	...	13	...	...	...	...
Bronx	51	...	...	...	...	1	...	...	44	5	...	1	...	...	...
Richmond	15	...	...	...	...	...	...	...	15	...	...	...	...	...	...
Total Upstate	274	1	1	2	...	1	...	1	264	...	4	...	...	...	...
Albany	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Allegany	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Broome	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Cattaraugus	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...		...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	11	1	...	...	...	...	...	...	10	...	...	...	...	...	...
Erie	42	...	...	...	...	...	...	...	40	...	2	...	...	...	...
Essex	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Franklin	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Jefferson	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	64	...	...	...	...	...	...	1	63	...	...	...	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	12	...	1	...	...	...	...	...	11	...	...	...	...	...	...
Niagara	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Oneida	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Onondaga	30	...	...	1	...	...	...	...	29	...	...	...	...	...	...
Ontario	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Orange	7	...	...	...	...	...	...	...	7	...	...	...	...	...	...
Orleans	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Oswego	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
St. Lawrence	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Saratoga	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Schenectady	10	...	...	...	...	...	...	...	10	...	...	...	...	...	...
Schoharie	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	...	...	...	...	...	...	...	9	...	...	...	...	...	...
Steuben	8	...	...	...	...	...	...	...	8	...	...	...	...	...	...
Suffolk	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Ulster	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Warren	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Westchester	9	...	...	...	...	1	...	...	6	..	2	...	...	...	...
Wyoming	3	...	...	1	...	...	...	...	2	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Table 56

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)

Types of Petitioners

January 1, 1980 through December 31, 1980

		Petition Originated By													
Region County	Total	Respondent's Parent	Respondent's Child	Respondent's Spouse or Former Spouse	Other Members of Respondent's Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Court's Motion)	Hospital (On Court's Motion)	Private Medical Doctor (On Court's Motion)	Other
Total New York State	790	2	1	2	...	10	1	1	719	6	47	...	...	...	1
Total New York City	346	...	...	...	...	6	1	...	288	6	44	...	...	...	1
New York	61	...	...	...	...	...	...	...	56	...	5	...	...	...	...
Kings	94	...	...	...	...	...	1	...	80	...	12	...	...	...	1
Queens	112	...	...	...	...	5	...	...	80	...	27	...	...	...	...
Bronx	64	...	...	...	...	1	...	...	57	6	...	...	...	...	...
Richmond	15	...	...	...	...	...	...	...	15	...	...	...	...	...	...
Total Upstate	444	2	1	2	...	4	...	1	431	...	3	...	...	...	...
Albany	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Allegany	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Broome	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Cattaraugus	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Chenango	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Clinton	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Columbia	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Dutchess	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Erie	71	...	...	...	...	...	...	...	71	...	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	4	...	...	...	...	...	...	...	4	...	...	...	...	...	...
Genesee	9	...	...	...	...	...	...	...	9	...	...	...	...	...	...
Greene	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Jefferson	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	7	...	...	...	...	...	...	...	7	...	...	...	...	...	...
Madison	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Monroe	82	...	...	...	...	2	...	1	79	...	...	...	...	...	...
Montgomery	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Nassau	27	...	1	...	...	...	...	...	26	...	...	...	...	...	...
Niagara	10	...	...	...	...	...	...	...	10	...	...	...	...	...	...
Oneida	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Onondaga	50	1	...	1	...	...	...	...	48	...	...	...	...	...	...
Ontario	6	1	...	...	...	...	...	...	5	...	...	...	...	...	...
Orange	4	...	...	...	...	...	...	...	4	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	12	...	...	...	...	...	...	...	12	...	...	...	...	...	...
Schenectady	7	...	...	...	...	...	...	...	7	...	...	...	...	...	...
Schoharie	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Steuben	6	...	...	...	...	...	...	...	6	...	...	...	...	...	...
Suffolk	15	...	...	...	...	...	...	...	15	...	...	...	...	...	...
Sullivan	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...
Tioga	3	...	...	...	...	...	...	...	3	...	...	...	...	...	...
Tompkins	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Ulster	4	...	...	...	...	...	...	...	3	...	1	...	...	...	...
Warren	5	...	...	...	...	...	...	...	5	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	16	...	...	...	...	...	...	...	16	...	...	...	...	...	...
Westchester	20	...	...	...	...	2	...	...	16	...	2	...	...	...	...
Wyoming	5	...	...	1	...	...	...	...	4	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Table 57
FAMILY COURT
Temporary Removal of Children in Child Protective Proceedings Involving Child Abuse (Boys Only)

January 1, 1980 through December 31, 1980

Region County	Total*	No Temporary Removal	Temporary Removal		Length of Removal Between Petition and Disposition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days Or More
Total New York State	551	241	73	299	19	13	15	13	82	103	43	9	2
Total New York City	277	107	14	168	14	9	5	8	44	55	29	4	...
New York	79	28	6	50	5	2	1	3	12	20	7	...	...
Kings	55	37	2	18	3	2	...	...	7	1	5	...	...
Queens	77	25	5	51	2	1	1	5	18	15	6	3	...
Bronx	51	9	1	42	4	3	3	...	6	15	10	1	...
Richmond	15	8	...	7	...	1	...	...	1	4	1	...	...
Total Upstate	274	134	59	131	5	4	10	5	38	48	14	5	2
Albany	6	...	...	6	...	...	...	...	4	2	...	...	...
Allegany	2	1	...	1	...	...	...	1	...	...	...	...	...
Broome	5	3	1	1	1	...	...	...	...	...	...	...	...
Cattaraugus	1	...	1	1	...	...	...	...	1	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	...	5	5	...	...	1	...	1	3	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	1	1	2	...	...	...	...	1	1	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	11	3	6	8	...	...	5	...	1	2	...	...	...
Erie	42	13	...	29	2	2	2	...	12	6	5	...	...
Essex	1	1	...	...	...	...	...	...	...	...	...	...	...
Franklin	1	...	1	1	...	...	1	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	8	6	...	2	...	...	...	...	...	1	1	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	...	...	...	...	...	...	...
Jefferson	2	1	1	1	1	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	2	...	1	...	1	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	64	38	15	26	1	...	...	...	7	8	5	3	2
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	12	9	1	3	...	...	...	...	2	1	...	...	...
Niagara	6	6	...	...	...	...	...	...	...	...	...	...	...
Oneida	1	1	...	...	...	...	...	...	...	...	...	...	...
Onondaga	30	16	4	11	...	...	1	...	1	6	2	1	...
Ontario	1	1	...	...	...	...	...	...	...	...	...	...	...
Orange	7	1	...	6	...	...	...	...	...	6	...	...	...
Orleans	1	...	...	1	...	...	...	1	...	...	...	...	...
Oswego	1	1	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	2	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	1	...	...	1	...	...	...	...	1	...	...	...	...
Saratoga	2	2	...	...	...	...	...	...	...	...	...	...	...
Schenectady	10	2	7	7	...	...	...	...	2	5	...	...	...
Schoharie	2	...	...	2	...	...	...	...	2	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	6	3	3	...	1	...	...	...	2	...	...	...
Steuben	8	1	7	3	...	...	...	2	...	...	1	...	...
Suffolk	6	3	...	3	...	...	...	...	...	2	...	1	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	1	1	...	...	...	...	1	...	...	...	...
Ulster	1	1	...	...	...	...	...	...	...	...	...	...	...
Warren	1	...	1	1	...	...	...	...	...	1	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	4	1	1	...	...	...	...	...	1	...	...	...
Westchester	9	6	3	3	...	...	...	1	1	1	...	...	...
Wyoming	3	2	...	1	...	...	...	...	1	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...

*Figures in Columns 2, 3 and 4 exceed Total because some proceedings are included in both Columns 3 and 4. There were 62 such proceedings statewide.

Table 58

FAMILY COURT
Temporary Removal of Children in Child Protective Proceedings Involving Child Abuse (Girls Only)

January 1, 1980 through December 31, 1980

Region County	Total*	No Temporary Removal	Temporary Removal		Length of Removal Between Petition and Disposition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days or More
Total New York State	790	346	116	429	36	19	26	18	113	121	81	14	1
Total New York City	346	127	15	219	17	12	13	6	50	65	48	8	...
New York	61	19	4	42	2	3	3	...	13	13	8	...	...
Kings	94	55	6	39	5	5	6	...	6	3	14	...	...
Queens	112	36	5	76	6	2	3	5	22	25	6	7	...
Bronx	64	12	...	52	3	2	1	1	9	20	15	1	...
Richmond	15	5	...	10	1	...	...	...	...	4	5	...	...
Total Upstate	444	219	101	210	19	7	13	12	63	56	33	6	1
Albany	5	1	...	4	...	...	...	...	3	1	...	...	...
Allegany	1	...	...	1	...	...	...	...	...	1	...	...	...
Broome	6	5	...	1	1	...	...	...	...	...	...	...	...
Cattaraugus	2	...	...	2	...	...	...	...	...	...	1	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	...	6	6	...	...	1	1	2	2	...	...	...
Chenango	5	1	3	4	1	...	2	...	...	...	...	...	...
Clinton	2	2	...	...	...	...	...	...	...	...	...	...	...
Columbia	3	...	3	3	...	...	...	...	3	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	1	...	1	1	...	...	...	...	1	...	...	...	...
Dutchess	6	2	3	4	...	...	1	...	...	3	...	...	...
Erie	71	27	3	44	1	...	2	3	16	20	2	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	4	2	2	2	...	...	...	...	1	1	...	...	...
Genesee	9	6	1	3	...	...	...	...	2	...	1	...	...
Greene	3	...	3	2	...	1	...	...	...	...	1	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	1	..	...	...	...	...	...	...	...	...	...
Jefferson	5	5	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	7	2	5	5	4	1	...	...	...	...	...	...	...
Madison	6	4	...	2	...	...	...	1	1	...	...	...	...
Monroe	82	49	19	33	...	...	...	2	8	10	11	1	1
Montgomery	2	1	...	1	1	...	...	...	...	...	...	...	...
Nassau	27	19	6	8	...	...	1	...	5	1	1	...	...
Niagara	10	5	4	4	...	...	...	1	3	...	...	...	...
Oneida	6	5	1	1	...	...	...	...	...	1	...	...	...
Onondaga	50	19	3	31	1	3	1	1	6	8	9	2	...
Ontario	6	4	2	1	...	...	1	...	...	...	...	...	...
Orange	4	1	...	3	...	...	...	...	1	2	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	1	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	5	3	...	2	...	...	...	...	...	2	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...
Seratoga	12	6	...	6	3	...	1	...	1	...	1	...	...
Schenectady	437	3	4	2	...	...	...	...	2	...	...	...	...
Schoharie	6	5	...	1	...	...	...	...	...	1	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	6	3	1	3	...	...	...	1	...	...	2	...	...
Steuben	6	2	4	1	...	...	...	...	...	...	...	1	...
Suffolk	15	6	5	7	3	...	1	...	2	...	...	1	...
Sullivan	2	1	...	1	...	...	...	...	1	...	...	...	...
Tioga	3	...	3	3	3	...	...	...	...	...	...	...	...
Tompkins	1	...	1	1	...	...	...	1	...	...	...	...	...
Ulster	4	1	3	3	...	...	...	...	1	1	1	...	...
Warren	5	2	1	3	...	...	1	...	1	1	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	16	15	...	1	...	...	...	...	...	...	1	...	...
Westchester	20	8	12	9	1	2	...	1	2	1	1	1	...
Wyoming	5	3	1	2	...	...	1	...	1	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...

*Figures in Columns 2, 3 and 4 exceed Total because some proceedings are included in both Columns 3 and 4. There were 101 such proceedings statewide.

Table 59

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only) Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

January 1, 1980 through December 31, 1980

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	551	107	22	24	21	116	114	28	16	...	103
Total New York City	277	26	10	7	6	61	73	19	13	...	62
New York	79	6	5	5	4	31	16	3	...	...	9
Kings	55	...	...	1	...	2	6	2	1	...	43
Queens	77	6	5	1	...	22	23	10	10	...	...
Bronx	51	1	...	...	2	5	27	4	2	...	10
Richmond	15	13	...	...	...	1	1	...	...	...	...
Total Upstate	274	81	12	17	15	55	41	9	3	...	41
Albany	6	...	...	...	...	2	3	...	...	...	1
Allegany	2	...	...	...	1	...	...	...	...	...	1
Broome	5	3	...	1	...	1	...	...	...	...	...
Cattaraugus	1	...	...	1	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	4	...	1	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	...	...	...	...	2	1	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...
Dutchess	11	3	...	...	4	1	...	1	...	...	2
Erie	42	40	...	2	...	...	...	...	...	...	...
Essex	1	...	...	...	...	...	1	...	...	...	...
Franklin	1	...	1	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...
Genesee	8	...	2	...	1	3	2	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	...	...	...	...	...
Jefferson	2	1	...	1	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	1	1	...	...	1	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...
Monroe	64	1	...	2	2	13	15	2	2	...	27
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	12	5	...	4	3	...	...	...	...	...	...
Niagara	6	2	...	1	...	3	...	...	...	...	...
Oneida	1	1	...	...	...	...	...	...	...	...	...
Onondaga	30	...	...	3	...	11	7	2	...	...	7
Ontario	1	...	1	...	...	...	...	...	...	...	...
Orange	7	3	...	...	...	4	...	...	...	...	...
Orleans	1	...	...	...	...	...	...	...	...	...	1
Oswego	1	1	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	...	...	...	...	1	1	...	...	...	...
St. Lawrence	1	...	...	...	...	...	1	...	...	...	...
Saratoga	2	2	...	...	...	...	...	...	...	...	...
Schenectady	10	2	...	...	...	...	7	...	...	...	1
Schoharie	2	...	2	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	1	1	...	...	6	1	...	...	...	...
Steuben	8	3	...	...	2	1	1	1	...	...	...
Suffolk	6	2	...	1	...	2	...	...	1	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	1	...	...	...	...	...	...	...	...
Ulster	1	...	...	...	...	1	...	...	...	...	...
Warren	1	1	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	...	1	...	2	...	1	1	...	...	...
Westchester	9	3	2	...	...	3	...	1	...	...	...
Wyoming	3	1	...	...	...	...	...	1	...	...	1
Yates	...	...	...	...	...	...	...	...	...	...	...

Table 60

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)
Length of Time Between Filing of Petition and Initial Fact-Finding Hearing

January 1, 1980 through December 31, 1980

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	790	170	41	33	40	172	147	37	18	1	131
Total New York City	346	19	19	11	19	76	81	16	15	1	89
New York	61	4	8	3	5	17	11	...	...	...	13
Kings	94	1	2	2	5	15	2	2	...	1	64
Queens	112	6	7	6	4	28	33	13	15	...	...
Bronx	64	...	2	...	5	12	32	1	...	...	12
Richmond	15	8	...	...	...	4	3	...	...	...	...
Total Upstate	444	151	22	22	21	96	66	21	3	...	42
Albany	5	1	...	...	1	3	...	...	...	...	...
Allegany	1	...	...	...	...	...	...	...	...	...	1
Broome	6	1	3	1	...	...	1	...	...	...	...
Cattaraugus	2	...	1	...	...	1	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	4	...	1	1	...	...	...	...	...	...
Chenango	5	...	...	2	...	1	2	...	...	...	...
Clinton	2	...	...	...	...	2	...	...	...	...	...
Columbia	3	...	...	...	1	2	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	1	...	...	...	...	1	...	...	...	...	...
Dutchess	6	1	...	...	2	...	...	3	...	...	...
Erie	71	66	1	2	...	2	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...
Fulton	4	...	1	...	...	...	1	...	...	...	2
Genesee	9	2	1	1	1	2	2	...	...	...	...
Greene	3	...	2	...	...	1	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	...	...	...	...	...
Jefferson	5	5	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	7	5	...	...	...	2	...	...	...	...	...
Madison	6	3	1	...	...	...	2	...	...	...	...
Monroe	82	2	...	1	4	19	22	5	1	...	28
Montgomery	2	1	...	...	...	1	...	...	...	...	...
Nassau	27	10	2	11	4	...	...	...	...	...	...
Niagara	10	...	2	...	...	6	1	...	...	...	1
Oneida	6	2	...	...	1	3	...	...	...	...	...
Onondaga	50	...	...	1	...	23	17	4	...	...	5
Ontario	6	6	...	...	...	...	...	...	...	...	...
Orange	4	1	...	...	...	2	1	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	1	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	5	1	...	...	...	3	1	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...
Saratoga	12	2	...	...	2	3	4	1	...	...	...
Schenectady	7	2	...	...	...	...	3	...	...	...	2
Schoharie	6	4	2	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	6	...	...	1	...	3	2	...	...	...	...
Steuben	6	2	1	...	...	2	...	1	...	...	...
Suffolk	15	7	...	...	...	4	1	2	1	...	...
Sullivan	2	1	...	...	...	...	1	...	...	...	...
Tioga	3	3	...	...	...	...	...	...	...	...	...
Tompkins	1	...	...	...	1	...	...	...	...	...	...
Ulster	4	...	...	...	...	2	...	1	...	...	1
Warren	5	3	...	...	1	1	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	16	2	2	...	1	5	2	3	1	...	...
Westchester	20	10	2	...	1	2	3	...	...	...	2
Wyoming	5	3	...	1	...	...	...	1	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...

Table 61

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only)
Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing*

January 1, 1980 through December 31, 1980

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	437	94	60	35	66	43	45	23	21	10	10	30
Total New York City	215	24	21	15	34	23	30	18	12	5	8	25
New York	70	12	3	5	11	6	2	7	7	1	4	12
Kings	12	2	1	...	4	1	1	...	2	...	...	1
Queens	77	7	9	7	12	10	12	6	2	4	1	7
Bronx	41	1	3	1	6	4	12	5	1	...	3	5
Richmond	15	2	5	2	1	2	3	...	...	...	...	...
Total Upstate	222	70	39	20	32	20	15	5	9	5	2	5
Albany	5	...	...	...	2	1	...	...	2	...	...	...
Allegany	1	...	1	...	...	...	...	...	...	...	...	...
Broome	5	4	1	...	...	...	...	...	...	...	...	...
Cattaraugus	1	1	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	3	1	1	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	3	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	9	2	...	3	2	...	1	...	1	...	...	...
Erie	31	31	...	...	...	...	...	...	...	...	...	...
Essex	1	1	...	...	...	...	...	...	...	...	...	...
Franklin	1	1	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	8	...	3	...	4	...	...	...	...	1	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	...	...	...	...	...	...
Jefferson	2	2	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	2	1	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	37	1	...	2	6	10	2	4	4	3	2	3
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	12	...	1	1	4	3	2	...	...	...	...	1
Niagara	6	4	2	...	...	...	...	...	...	...	...	...
Oneida	1	...	1	...	...	...	...	...	...	...	...	...
Onondaga	23	...	...	5	7	4	5	...	...	1	...	1
Ontario	1	1	...	...	...	...	...	...	...	...	...	...
Orange	7	1	6	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	...	...	1	...	...	...	..	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	...	...	...	1	1	...	...	...	...	...	...
St. Lawrence	1	1	...	...	..	...	...	...	...	...	...	...
Saratoga	2	2	...	...	...	...	...	...	...	...	...	...
Schenectady	9	...	2	...	1	...	4	1	1	...	...	...
Schoharie	2	...	2	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	...	3	3	3	...	...	...	...	...	...	...
Steuben	8	3	2	2	...	...	1	...	...	...	...	...
Suffolk	6	1	2	1	2	...	...	...	...	...	...	...
Sullivan	...	...	...	...	..	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	1	...	...	...	...	...	...	...	...	...
Ulster	1	1	...	...	...	...	..	...	...	...	...	...
Warren	1	...	1	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	2	2	1	...	...	...	...	...	...	...	...
Westchester	9	2	5	1	...	...	...	...	1	...	...	...
Wyoming	2	...	2	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 62

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)

Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing*

January 1, 1980 through December 31, 1980

Region **County**	**Number of Adjournments**											
	Total	**None**	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**Over 9**
Total New York State	642	141	108	73	77	68	56	29	22	15	15	38
Total New York City	257	15	27	43	36	33	28	20	14	12	5	24
New York	48	11	3	12	4	7	...	1	3	2	...	5
Kings	30	...	1	8	4	1	3	3	7	...	...	3
Queens	112	3	19	12	20	16	12	7	1	8	1	13
Bronx	52	...	4	6	5	7	11	9	2	2	3	3
Richmond	15	1	...	5	3	2	2	...	1	...	1	...
Total Upstate	385	126	81	30	41	35	28	9	8	3	10	14
Albany	5	...	2	...	...	3	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...
Broome	6	5	1	...	...	...	...	...	...	...	...	...
Cattaraugus	2	2	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	2	4	...	...	...	...	...	...	...	...	...
Chenango	5	3	2	...	...	...	...	...	...	...	...	...
Clinton	1	1	...	...	...	...	...	...	...	...	...	...
Columbia	3	3	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	1	...	1	...	...	...	...	...	...	...	...	...
Dutchess	6	2	...	1	...	...	...	...	3	...	...	...
Erie	57	53	3	...	...	...	...	1	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	2	1	...	...	1	...	...	...	...	...	...	...
Genesee	9	...	3	3	3	...	...	...	...	...	...	...
Greene	3	2	1	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	...	...	...	...	...	...
Jefferson	5	5	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	7	7	...	...	...	...	...	...	...	...	...	...
Madison	6	2	4	...	...	...	...	...	...	...	...	...
Monroe	54	2	...	2	7	14	6	4	4	3	5	7
Montgomery	2	1	...	...	1	...	...	...	...	...	...	...
Nassau	27	5	3	3	7	3	1	2	...	...	...	3
Niagara	7	3	4	...	...	...	...	...	...	...	...	...
Oneida	6	1	2	2	1	...	...	...	...	...	...	...
Onondaga	45	1	1	5	10	10	12	...	...	...	5	1
Ontario	6	4	1	1	...	...	...	...	...	...	...	...
Orange	4	1	3	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	...	...	1	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	5	...	5	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	12	...	2	2	1	1	4	2	...	...	...	...
Schenectady	5	...	2	...	1	...	2	...	...	...	...	...
Schoharie	6	...	6	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	6	1	...	2	3	...	...	...	...	...	...	...
Steuben	6	2	1	3	...	...	...	...	...	...	...	...
Suffolk	15	5	3	1	2	...	1	...	...	...	...	3
Sullivan	2	...	1	...	...	...	...	...	1	...	...	...
Tioga	3	...	3	...	...	...	...	...	...	...	...	...
Tompkins	1	...	1	...	...	...	...	...	...	...	...	...
Ulster	3	3	...	...	...	...	...	...	...	...	...	...
Warren	5	1	3	1	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	16	2	5	3	1	3	2	...	...	...	...	...
Westchester	18	5	9	1	3	...	...	...	...	...	...	...
Wyoming	5	...	5	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 63

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only)
Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

January 1, 1980 through December 31, 1980

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	551	132	4	13	18	125	78	42	30	6	103
Total New York City	277	59	2	3	2	72	46	16	11	4	62
New York	79	22	...	...	1	32	13	2	...	...	9
Kings	55	1	...	...	...	6	2	1	1	1	43
Queens	77	32	2	...	1	17	9	7	6	3	...
Bronx	51	4	...	3	...	13	11	6	4	...	10
Richmond	15	...	...	...	...	4	11	...	...	...	...
Total Upstate	274	73	2	10	16	53	32	26	19	2	41
Albany	6	5	...	...	...	...	...	...	...	...	1
Allegany	2	...	...	...	...	1	...	...	...	...	1
Broome	5	3	...	...	1	1	...	...	...	...	...
Cattaraugus	1	...	...	...	1	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	...	...	...	...	2	3	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	3	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...
Dutchess	11	2	...	...	4	...	3	...	...	...	2
Erie	42	4	...	4	...	9	5	19	...	1	...
Essex	1	...	...	1	...	...	...	...	...	...	...
Franklin	1	...	...	...	...	...	...	...	1	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...
Genesee	8	...	...	...	2	...	1	...	5	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	1	...	...	...	...
Jefferson	2	2	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	...	1	...	...	2	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...
Monroe	64	17	...	1	5	12	...	...	2	...	27
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	12	...	...	...	...	5	2	1	4	...	...
Niagara	6	2	...	2	...	1	1	...	...	...	...
Oneida	1	...	...	...	...	1	...	...	...	...	...
Onondaga	30	12	...	1	1	7	2	...	...	...	7
Ontario	1	...	...	...	...	...	...	...	1	...	...
Orange	7	1	...	...	1	...	5	...	...	...	...
Orleans	1	...	...	...	...	...	...	...	...	...	1
Oswego	1	...	...	...	...	...	...	1	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	1	...	...	...	...	...	...	...	...	...
St. Lawrence	1	1	...	...	...	...	...	...	...	...	...
Saratoga	2	...	...	...	...	...	...	2	...	...	...
Schenectady	10	4	...	...	...	5	...	...	...	...	1
Schoharie	2	...	...	...	...	2	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	7	...	...	1	...	1	...	...	...	...
Steuben	8	5	1	...	...	...	1	...	1	...	...
Suffolk	6	1	...	1	...	...	...	2		1	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	...	...	...	...	1	...	...	...	...
Ulster	1	...	...	...	...	1	...	...	...	...	...
Warren	1	...	...	...	...	...	1	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	1	...	...	...	1	...	...	1	...	...
Westchester	9	1	...	...	...	3	3	...	2	...	...
Wyoming	3	1	...	...	...	...	...	...	1	...	1
Yates	...	...	...	...	...	...	...	...	...	...	...

Table 64

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)
Length of Time Between Initial Fact-Finding Hearing and Dispositional Hearing

January 1, 1980 through December 31, 1980

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	790	188	10	20	36	147	132	92	25	9	131
Total New York City	346	66	1	2	5	63	59	48	7	6	89
New York	61	11	...	...	1	18	13	5	...	...	13
Kings	94	3	...	...	...	3	8	13	2	1	64
Queens	112	47	1	1	4	23	13	15	3	5	...
Bronx	64	5	...	1	...	13	19	12	2	...	12
Richmond	15	...	...	...	...	6	6	3	...	...	...
Total Upstate	444	122	9	18	31	84	73	44	18	3	42
Albany	5	2	...	...	1	...	1	1	...	...	...
Allegany	1	...	...	...	...	...	...	...	...	...	1
Broome	6	2	3	...	1	...	...	...	...	...	...
Cattaraugus	2	...	...	...	...	...	...	2	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	1	...	...	2	1	2	...	...	...	...
Chenango	5	4	...	...	...	...	1	...	...	...	...
Clinton	2	2	...	...	...	...	...	...	...	...	...
Columbia	3	2	...	...	1	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	1	1	...	...	...	...	...	...	...	...	...
Dutchess	6	...	...	...	4	...	2	...	...	...	...
Erie	71	3	1	6	3	19	20	17	1	1	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...
Fulton	4	1	1	...	...	...	...	...	...	...	2
Genesee	9	1	2	...	...	1	...	...	5	...	...
Greene	3	...	...	...	...	...	1	1	1	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	1	...	...	...	...
Jefferson	5	5	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	7	5	...	...	...	2	...	...	...	...	...
Madison	6	...	...	...	2	4	...	...	...	...	...
Monroe	82	31	...	5	3	12	1	...	2	...	28
Montgomery	2	...	...	...	...	1	...	...	1	...	...
Nassau	27	...	...	...	2	5	12	6	1	1	...
Niagara	10	5	...	...	2	2	...	...	...	...	1
Oneida	6	...	...	...	1	5	...	...	...	...	...
Onondaga	50	22	...	...	2	11	10	...	...	...	5
Ontario	6	1	1	1	1	1	1	...	...	...	...
Orange	4	...	...	...	...	1	3	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	...	...	...	...	1	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	5	1	...	...	...	3	...	1	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...
Saratoga	12	7	...	...	...	...	...	4	1	...	...
Schenectady	7	3	...	...	...	2	...	...	...	...	2
Schoharie	6	...	...	3	2	...	1	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	6	2	...	...	...	2	...	2	...	...	...
Steuben	6	2	...	...	...	...	1	3	...	...	...
Suffolk	15	3	...	2	...	4	4	1	...	1	...
Sullivan	2	...	...	...	...	2	...	...	...	...	...
Tioga	3	...	...	...	3	...	...	...	...	...	...
Tompkins	1	1	...	...	...	...	...	...	...	...	...
Ulster	4	...	...	1	1	...	1	...	...	...	1
Warren	5	2	...	...	...	1	2	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	16	6	...	...	...	1	6	3	...	...	...
Westchester	20	5	...	...	...	4	3	2	4	...	2
Wyoming	5	2	1	...	...	...	...	...	2	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...

Table 65

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Boys Only)
Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing*

January 1, 1980 through December 31, 1980

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	435	143	102	69	42	13	18	12	10	6	4	16
Total New York City	208	50	53	35	21	6	4	8	7	5	4	15
New York	65	10	19	11	4	1	1	1	3	5	1	9
Kings	12	2	6	...	1	...	1	2	...	...	...	...
Queens	76	30	17	7	4	1	2	5	3	...	3	4
Bronx	40	5	11	8	9	4	...	...	1	...	...	2
Richmond	15	3	...	9	3	...	...	...	...	...	...	...
Total Upstate	227	93	49	34	21	7	14	4	3	1	...	1
Albany	5	...	5	...	...	...	...	...	...	...	...	...
Allegany	1	...	1	...	...	...	...	...	...	...	...	...
Broome	5	4	1	...	...	...	...	...	...	...	...	...
Cattaraugus	1	...	1	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	...	5	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	3	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	9	2	...	5	2	...	...	...	...	...	...	...
Erie	40	1	4	5	11	4	9	3	2	1	...	...
Essex	1	1	...	...	...	...	...	...	...	...	...	...
Franklin	1	1	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	7	5	1	...	1	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	...	...	...	...	...	...
Jefferson	2	2	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	...	3	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	35	17	7	8	3	...	...	...	...	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	12	2	1	5	...	1	2	1	...	...	...	...
Niagara	6	6	...	...	...	...	...	...	...	...	...	...
Oneida	1	1	...	...	...	...	...	...	...	...	...	...
Onondaga	22	11	4	5	1	...	1	...	...	...	...	...
Ontario	1	1	...	...	...	...	...	...	...	...	...	...
Orange	7	5	2	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	1	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	1	1	...	...	...	...	...	...	...	...	...
St. Lawrence	1	1	...	...	...	...	...	...	...	...	...	...
Saratoga	2	2	...	...	...	...	...	...	...	...	...	...
Schenectady	9	7	2	...	...	...	...	...	...	...	...	...
Schoharie	2	...	...	2	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	8	1	...	...	...	...	...	...	...	...	...
Steuben	8	5	2	1	...	...	...	...	...	...	...	...
Suffolk	6	1	...	...	1	2	1	...	...	...	...	1
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	...	1	...	...	...	...	...	...	...	...
Ulster	1	1	...	...	...	...	...	...	...	...	...	...
Warren	1	...	1	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	2	2	1	...	...	...	...	...	...	...	...
Westchester	9	1	3	1	2	...	1	...	1	...	...	...
Wyoming	2	1	1	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 66

FAMILY COURT

Child Protective Proceedings Involving Child Abuse (Girls Only)

Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing*

January 1, 1980 through December 31, 1980

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	641	214	147	84	65	37	20	25	21	9	2	17
Total New York City	251	55	60	31	28	20	10	16	11	5	2	13
New York	46	1	16	5	7	3	...	2	3	3	...	6
Kings	30	1	5	4	6	2	4	4	...	...	1	3
Queens	108	47	24	5	6	7	1	6	6	2	1	3
Bronx	52	5	15	11	5	8	3	2	2	...	...	1
Richmond	15	1	...	6	4	...	2	2	...	...	...	...
Total Upstate	390	159	87	53	37	17	10	9	10	4	...	4
Albany	5	2	...	2	1	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...
Broome	6	5	1	...	...	...	...	...	...	...	...	...
Cattaraugus	2	...	...	...	1	1	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	2	3	...	...	1	...	...	...	...	...	...
Chenango	5	5	...	...	...	...	...	...	...	...	...	...
Clinton	1	1	...	...	...	...	...	...	...	...	...	...
Columbia	3	3	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	6	2	...	4	...	...	...	...	...	...	...	...
Erie	71	9	2	12	18	6	5	5	9	4	...	1
Essex	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	2	2	...	...	...	...	...	...	...	...	...	...
Genesee	6	2	3	1	...	...	...	...	...	...	...	...
Greene	3	2	...	...	...	1	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	...	...	...	...	...	...
Jefferson	5	5	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	7	4	3	...	...	...	...	...	...	...	...	...
Madison	6	5	1	...	...	...	...	...	...	...	...	...
Monroe	54	30	10	10	2	2	...	...	...	...	...	...
Montgomery	2	...	1	1	...	...	...	...	...	...	...	...
Nassau	26	5	7	5	1	4	2	1	...	...	...	1
Niagara	7	6	1	...	...	...	...	...	...	...	...	...
Oneida	6	...	4	1	1	...	...	...	...	...	...	...
Onondaga	42	19	4	13	6	...	...	...	...	...	...	...
Ontario	5	1	3	...	1	...	...	...	...	...	...	...
Orange	4	3	1	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	1	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	5	1	2	...	2	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	12	7	5	...	...	...	...	...	...	...	...	...
Schenectady	5	3	2	...	...	...	...	...	...	...	...	...
Schoharie	6	3	3	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	6	2	3	...	...	...	...	...	...	...	...	1
Steuben	6	2	1	2	1	...	...	...	...	...	...	...
Suffolk	15	1	6	...	1	1	2	2	1	...	...	1
Sullivan	2	1	1	...	...	...	...	...	...	...	...	...
Tioga	3	...	3	...	...	...	...	...	...	...	...	...
Tompkins	1	1	...	...	...	...	...	...	...	...	...	...
Ulster	3	3	...	...	...	...	...	...	...	...	...	...
Warren	5	3	2	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	16	8	7	1	...	...	...	...	...	...	...	...
Westchester	18	7	5	1	2	1	1	1	...	...	...	...
Wyoming	5	3	2	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table 67

FAMILY COURT

Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex Reason for Petition Abuse Only

January 1, 1980 through December 1, 1980

Region County	Boys							Girls						
		Court Findings at Dispositional Hearing				Court Findings Based On			Court Findings at Dispositional Hearing				Court Findings Based On	
	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	419	159	139	12	109	213	206	633	281	158	15	179	310	323
Total New York City	194	85	66	7	36	105	89	249	109	79	8	53	127	122
New York	45	23	13	4	5	37	8	47	14	22	2	9	31	16
Kings	26	21	...	1	4	19	7	42	30	6	3	3	30	12
Queens	69	26	21	...	22	26	43	101	43	20	1	37	38	63
Bronx	39	9	25	2	3	17	22	44	11	28	2	3	20	24
Richmond	15	6	7	...	2	6	9	15	11	3	...	1	8	7
Total Upstate	225	74	73	5	73	108	117	384	172	79	7	126	183	201
Albany	6	6	...	...	...	6	...	5	5	...	...	...	5	...
Allegany	2	...	1	...	1	2	...	1	...	1	...	...	...	1
Broome	5	1	...	...	4	1	4	6	1	...	...	5	...	6
Cattaraugus	1	...	1	...	...	1	...	2	1	1	...	...	2	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	3	2	...	...	...	5	6	4	2	...	...	1	5
Chenango	...	...	...	...	...	...	...	4	1	1	...	2	1	3
Clinton	3	1	2	...	...	3	...	2	...	1	...	1	1	1
Columbia	...	...	...	...	...	...	...	2	...	2	...	...	1	1
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	1	...	...	...	1	...	1
Dutchess	10	5	3	1	1	7	3	6	5	...	1	...	6	...
Erie	42	8	19	1	14	16	26	69	21	21	...	27	24	45
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	2	1	...	...	1	...	2
Genesee	6	...	2	...	4	...	6	9	...	3	...	6	3	6
Greene	...	...	...	...	...	...	...	3	...	1	...	2	2	1
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	1	1	1	...	...	...	...	1
Jefferson	2	...	...	...	2	...	2	5	1	...	...	4	1	4
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	1	2	...	...	...	3	7	6	...	1	...	...	7
Madison	...	...	...	...	...	...	...	5	4	...	...	1	2	3
Monroe	40	22	8	1	9	31	9	58	38	8	1	11	47	11
Montgomery	...	...	...	...	...	...	...	2	...	1	...	1	1	1
Nassau	5	...	3	1	1	4	1	3	...	1	1	1	2	1
Niagara	4	2	...	...	2	1	3	10	4	2	...	4	4	6
Oneida	1	...	...	...	1	...	1	6	4	2	...	...	6	...
Onondaga	29	8	14	...	7	13	16	50	29	14	...	7	24	26
Ontario	...	...	...	...	...	...	...	4	2	1	...	1	3	1
Orange	7	...	6	11	...	6	1	4	...	2	1	1	2	2
Orleans	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	1	...	...	...	1	...	1	1	...	...	...	1	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	...	1	...	1	1	1	5	3	1	...	1	3	2
St. Lawrence	1	1	...	...	...	1	...	...	...	...	...	...	...	...
Saratoga	2	...	...	...	2	...	2	12	3	1	...	8	1	11
Schenectady	7	3	2	...	2	1	6	7	3	2	...	2	...	7
Schoharie	2	...	2	...	...	2	...	6	1	4	1	...	3	3
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	...	...	...	9	1	8	5	...	2	...	3	1	4
Steuben	6	3	...	...	3	3	3	6	2	...	...	4	4	2
Suffolk	6	4	1	...	1	1	5	15	10	...	...	5	5	10
Sullivan	...	...	...	...	...	...	...	2	1	...	...	1	...	2
Tioga	...	...	...	...	...	...	...	3	...	...	...	3	3	...
Tompkins	1	...	...	...	1	...	1	1	...	1	...	...	...	1
Ulster	1	...	...	...	1	1	...	3	1	...	1	1	2	1
Warren	1	1	...	...	...	...	1	5	5	...	...	...	...	5
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	4	2	2	...	...	3	1	16	12	1	...	3	16	...
Westchester	7	1	2	...	4	2	5	20	2	3	...	15	6	14
Wyoming	3	...	...	...	3	...	3	4	...	...	...	4	...	4
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Table 68

FAMILY COURT

Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex
Reason for Petition Both Abuse and Neglect

January 1, 1980 through December 31, 1980

Region County	Boys							Girls						
	Total	Court Findings at Dispositional Hearing				Court Findings Based On		Total	Court Findings at Dispositional Hearing				Court Findings Based On	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	104	23	44	7	30	61	43	129	26	53	21	29	71	58
Total New York City	69	20	32	6	11	47	22	79	18	38	14	9	40	39
New York	29	8	17	...	4	22	7	12	3	5	...	4	9	3
Kings	24	7	4	6	7	16	8	41	8	17	12	4	17	24
Queens	5	5	...	...	...	5	...	7	7	...	...	...	7	...
Bronx	11	...	11	...	...	4	7	19	...	16	2	1	7	12
Richmond	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	35	3	12	1	19	14	21	50	8	15	7	20	31	19
Albany	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	1	...	1	...	...	1	...
Clinton	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	1	...	1	...	...	1	...	...	...	...	...	...	...	...
Erie	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Essex	1	...	...	...	1	...	1	...	...	...	...	...	...	...
Franklin	1	...	...	...	1	...	1	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	2	...	...	...	2	...	2
Genesee	2	...	1	...	1	1	1	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	1	...	1	...	...	1	...
Monroe	18	2	4	1	11	7	11	19	2	1	2	14	5	14
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	3	...	3	...	...	3	...	22	5	11	5	1	21	1
Niagara	2	...	...	...	2	...	2	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Onondaga	1	...	1	...	...	...	1	...	...	...	...	...	...	...
Ontario	1	...	1	...	...	1	...	2	1	...	...	1	1	1
Orange	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	1	...	...	...	1	...	1	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	1	...	1	...	...	1	...
Steuben	2	...	...	...	2	...	2	...	...	...	...	...	...	...
Suffolk	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	1	...	...	...	1	1	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Westchester	2	1	1	...	...	1	1	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	1	...	...	...	1	...	1
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Table 69

FAMILY COURT

Court Findings in Child Protective Proceedings Involving Child Abuse, by Sex Reason for Petition Neglect Only

January 1, 1980 through December 31, 1980

Region County	Boys							Girls						
		Court Findings at Dispositional Hearing				Court Findings Based On			Court Findings at Dispositional Hearing				Court Findings Based On	
	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	2,082	16	1,272	12	782	1,021	1,061	2,012	19	1,251	9	733	1,006	1,006
Total New York City	758	10	599	4	145	478	280	703	11	562	7	123	463	240
New York	216	4	185	1	26	144	72	154	1	135	1	17	108	46
Kings	143	3	132	2	6	108	35	158	5	144	6	3	130	28
Queens	179	2	99	1	77	73	106	167	4	93	...	70	68	99
Bronx	176	1	143	...	32	130	46	181	1	151	...	29	129	52
Richmond	44	...	40	...	4	23	21	43	...	39	...	4	28	15
Total Upstate	1,324	6	673	8	637	543	781	1,309	8	689	2	610	543	766
Albany	21	...	21	...	...	21	...	18	...	18	...	...	18	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	31	...	6	...	25	12	19	30	...	10	...	20	7	23
Cattaraugus	25	...	20	...	5	16	9	21	...	16	...	5	13	8
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	32	...	3	...	29	14	18	40	...	16	...	24	20	20
Chemung	25	...	22	...	3	...	25	24	...	16	...	8	1	23
Chenango	6	...	6	...	...	6	...	4	...	4	...	...	2	2
Clinton	9	...	7	...	2	9	...	10	...	9	...	1	9	1
Columbia	3	...	3	...	...	...	3	4	1	3	...	...	1	3
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	27	...	16	...	11	14	13	20	...	8	...	12	8	12
Dutchess	28	...	21	...	7	19	9	17	...	8	...	9	8	9
Erie	243	...	137	...	106	122	121	264	1	144	1	118	146	118
Essex	1	...	...	...	1	...	1	8	...	1	...	7	1	7
Franklin	35	...	26	...	9	27	8	29	...	18	...	11	16	13
Fulton	10	...	4	...	6	2	8	8	...	4	...	4	...	8
Genesee	9	...	1	...	8	2	7	14	...	3	...	11	2	12
Greene	12	...	2	...	10	6	6	16	...	6	...	10	9	7
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	3	...	3	...	...	2	1	3	...	2	...	1	2	1
Jefferson	18	...	4	...	14	2	16	22	...	5	...	17	3	19
Lewis	1	...	1	...	...	1	...	1	...	1	...	...	1	...
Livingston	3	...	2	...	1	1	2	6	...	4	...	2	4	2
Madison	6	...	5	...	1	3	3	9	...	9	...	...	3	6
Monroe	152	6	51	...	95	58	94	154	5	60	...	89	65	89
Montgomery	9	...	...	...	6	...	9	5	...	...	...	5	...	5
Nassau	97	...	74	4	19	58	39	90	1	71	1	17	55	35
Niagara	34	...	9	...	25	3	31	56	...	22	...	34	10	46
Oneida	9	...	3	...	6	5	4	16	...	6	...	10	7	9
Onondaga	77	...	39	...	38	17	60	66	...	36	...	30	20	46
Ontario	24	...	24	...	...	7	17	28	...	25	...	3	14	14
Orange	6	...	3	...	3	2	4	8	...	2	...	6	5	3
Orleans	5	...	2	...	3	...	5	8	...	5	...	3	3	5
Oswego	1	...	...	...	1	...	1	1	...	...	...	1	...	1
Otsego	3	...	3	...	...	3	...	5	...	5	...	...	3	2
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	11	...	2	...	9	2	9	7	...	4	...	3	6	1
St. Lawrence	16	...	14	...	2	15	1	7	...	5	...	2	5	2
Saratoga	13	...	4	...	9	...	13	12	...	5	...	7	...	12
Schenectady	32	...	25	3	4	7	25	34	...	23	...	11	8	26
Schoharie	13	...	7	...	6	5	8	15	...	11	...	4	5	10
Schuyler	2	...	...	...	2	...	2	1	...	...	...	1	...	1
Seneca	4	...	...	...	4	...	4	3	...	2	...	1	2	1
Steuben	19	...	...	...	19	13	6	9	...	1	...	8	6	3
Suffolk	87	...	30	...	57	8	79	89	...	37	...	52	11	78
Sullivan	5	...	...	...	5	1	4	5	...	1	...	4	...	5
Tioga	12	...	...	...	12	3	9	6	...	1	...	5	1	5
Tompkins	8	...	2	...	6	1	7	7	...	4	...	3	...	7
Ulster	9	...	4	...	5	6	3	8	...	6	...	2	4	4
Warren	12	...	11	...	1	1	11	5	...	5	...	...	...	5
Washington	2	...	2	...	...	2	...	3	...	3	...	...	3	...
Wayne	37	...	16	1	20	28	9	24	...	12	18	12	18	6
Westchester	71	...	38	...	33	19	52	62	...	32	...	30	18	44
Wyoming	6	...	...	...	6	...	6	7	...	...	...	7	...	7
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Table 70
FAMILY COURT
Dispositions of Child Protective Proceedings Involving Child Abuse (Boys Only)*
January 1, 1980 through December 31, 1980

Region County	Total	Withdrawn	Dismissed	Judgment Suspended	Released to Parent or Other Person	Released to Parent or Other Person Under Social Services Department Supervision	Released to Parent or Other Under Private Agency Supervision	Probation	Order of Protection	Transferred to a Court With Criminal Jurisdiction	Transferred to Family Court In Another County	Consolidated With Another Child Protective Proceeding	Consolidated With Family Offense Proceeding	Consolidated With Support Proceeding	Removal of Child From Home and Placement With Relative	Removal of Child From Home and Placement With Non-Relative	Removal of Child From Home and Placement With Public Social Services, Department or Officer	Removal of Child From Home and Placement With Private Institution	Removal of Child From Home and Placement With Other Authorized Agency	Other
Total New York State	551	42	138	5	18	81	...	...	49	1	2	...	...	...	5	...	202	...	...	8
Total New York City	277	25	73	3	8	36	...	...	30	...	...	...	...	...	2	...	99	...	...	1
New York	79	1	10	2	2	7	...	...	13	...	...	...	...	...	...	...	44	...	...	...
Kings	55	16	29	...	1	4	...	...	...	...	...	...	...	...	...	...	4	...	...	1
Queens	77	2	23	1	3	17	...	...	7	...	...	...	...	...	2	...	22	...	...	...
Bronx	51	4	11	...	2	6	...	...	5	...	...	...	...	...	...	...	23	...	...	...
Richmond	15	2	...	...	...	2	...	...	5	...	...	...	...	...	...	...	6	...	...	...
Total Upstate	274	17	65	2	10	45	...	...	19	1	2	...	...	...	3	...	103	...	...	7
Albany	6	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	5	...	...	...
Allegany	2	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Broome	5	...	...	2	...	2	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Cattaraugus	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	2	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	11	...	3	...	2	4	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Erie	42	1	13	...	...	3	...	...	5	...	...	...	...	...	...	...	17	...	...	3
Essex	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	8	...	5	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Jefferson	2	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	64	2	23	...	3	9	...	...	2	...	...	...	...	...	1	...	24	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	12	...	1	...	1	4	...	...	2	...	...	...	...	...	...	...	3	...	...	1
Niagara	6	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...	4	...	...	...
Oneida	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Onondaga	30	3	4	...	...	4	...	...	5	...	...	...	...	...	...	...	11	...	...	3
Ontario	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orange	7	...	...	...	...	5	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Orleans	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Saratoga	2	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schenectady	10	1	...	...	...	2	...	...	...	...	...	...	...	...	2	...	5	...	...	...
Schoharie	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	...	1	...	8	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	8	1	...	...	...	...	...	...	...	...	2	...	...	...	...	...	5	...	...	...
Suffolk	6	1	4	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	5	...	...	...	1	...	...	...	2	...	...	...	...	...	...	...	2	...	...	...
Westchester	9	2	2	...	2	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Wyoming	3	1	1	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*For the purpose of compiling this table, only one disposition per case was considered. If more than one disposition was reported for a case, the one deemed to be most significant was used.

Table 71
FAMILY COURT
Dispositions of Child Protective Proceedings Involving Child Abuse (Girls Only)*
January 1, 1980 through December 31, 1980

Region County	Total	Withdrawn	Dismissed	Judgment Suspended	Released to Parent or Other Person	Released to Parent or Other Person Under Social Services Department Supervision	Released to Parent or Other Person Under Private Agency Supervision	Probation	Order of Protection	Transferred to a Court With Criminal Jurisdiction	Transferred to Family Court in Another County	Consolidated With Another Child Protective Proceeding	Consolidated With Family Offense Proceeding	Consolidated With Support Proceeding	Removal of Child From Home and Placement With Relative	Removal of Child From Home and Placement With Non-Relative	Removal of Child From Home and Placement With Public Social Services Department or Officer	Removal of Child From Home and Placement With Private Institution	Removal of Child From Home and Placement With Other Authorized Agency	Other
Total New York State	790	81	178	9	23	120	5	1	69	1	3	...	1	...	14	...	272	...	1	12
Total New York City	346	54	80	3	9	44	2	1	23	...	...	...	...	...	8	...	116	...	...	6
New York	61	3	13	2	...	5	1	...	5	...	...	...	...	...	1	...	31	...	...	...
Kings	94	29	36	...	3	...	1	1	2	...	...	...	...	...	...	...	16	...	...	6
Queens	112	15	22	1	4	21	...	...	11	...	...	...	...	...	7	...	31	...	...	...
Bronx	64	6	9	...	2	12	...	...	5	...	...	...	...	...	...	...	30	...	...	...
Richmond	15	1	...	...	...	6	...	...	...	...	...	...	...	...	...	...	8	...	...	...
Total Upstate	444	27	98	6	14	76	3	...	46	1	3	...	1	...	6	...	156	...	1	6
Albany	5	1	1	...	...	1	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Allegany	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Broome	6	...	...	4	...	1	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Cattaraugus	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	6	...	1	...	...	2	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Chenango	5	...	...	...	3	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...
Clinton	2	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Columbia	3	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	6	...	...	...	...	4	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Erie	71	3	19	...	...	9	...	...	15	...	...	...	...	...	...	...	23	...	...	2
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	4	1	2	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Genesee	9	...	6	...	...	...	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Greene	3	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Jefferson	5	...	1	...	...	2	...	...	...	...	...	...	...	...	...	2	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	7	...	...	...	...	4	...	...	...	...	...	...	...	...	...	...	3	...	...	...
Madison	6	...	1	...	...	3	...	...	1	...	...	...	...	...	...	...	1	...	...	...
Monroe	82	3	25	...	3	15	...	...	4	...	...	...	...	...	1	...	31	...	...	...
Montgomery	2	...	1	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	27	1	4	...	1	6	...	...	7	...	...	...	...	...	...	...	8	...	...	...
Niagara	10	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...	7	...	1	...
Oneida	6	...	...	1	...	1	...	...	1	...	...	...	...	...	...	...	3	...	...	...
Onondaga	50	4	3	...	4	3	...	...	6	...	...	...	...	...	...	...	27	...	...	3
Ontario	6	...	1	...	...	...	1	...	3	...	...	...	...	...	1	...	...	...	...	...
Orange	4	...	1	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	5	...	1	...	...	2	...	...	...	...	...	...	...	...	...	...	1	...	...	1
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	12	...	8	...	...	...	...	...	2	...	...	...	...	...	...	...	2	...	...	...
Schenectady	7	2	...	...	...	1	...	...	...	...	...	...	...	...	2	...	2	...	...	...
Schoharie	6	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	6	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	6	...	...	...	...	6	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	6	1	...	...	1	...	...	...	...	...	1	...	...	...	1	...	2	...	...	...
Suffolk	15	3	3	...	...	5	1	...	...	...	...	...	...	...	...	...	3	...	...	...
Sullivan	2	1	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...
Tioga	3	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Ulster	4	...	1	...	1	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...
Warren	5	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	5	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	16	...	3	...	...	3	...	...	2	...	2	...	...	...	...	...	6	...	...	...
Westchester	20	6	8	...	...	2	1	...	1	...	...	...	...	...	...	...	2	...	...	...
Wyoming	5	...	1	...	...	...	...	...	2	...	...	...	...	...	1	...	1	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*For the purpose of compiling this table, only one disposition per case was considered. If more than one disposition was reported for a case, the one deemed to be most significant was used.

Table 72

FAMILY COURT

Child Protective Petitions Involving Child Abuse, by Sex Disposed of Between January 1, 1980 and December 31, 1980

Region County	Boys			Girls		
	Total	Petition Filed Prior to January 1, 1979	Petition Filed on or After January 1, 1979	Total	Petition Filed Prior to January 1, 1979	Petition Filed on or After January 1, 1979
Total New York State	551	245	306	790	330	460
Total New York City	277	123	154	346	152	194
New York	79	20	59	61	13	48
Kings	55	29	26	94	50	44
Queens	77	43	34	112	54	58
Bronx	51	29	22	64	30	34
Richmond	15	2	13	15	5	10
Total Upstate	274	122	152	444	178	266
Albany	6	....	6	5	1	4
Allegany	2	1	1	1	1	....
Broome	5	....	5	6	....	6
Cattaraugus	1	....	1	2	2	....
Cayuga	....	....	....	....	....	....
Chautauqua	....	....	....	....	....	....
Chemung	5	3	2	6	2	4
Chenango	....	....	....	5	....	5
Clinton	3	1	2	2	1	1
Columbia	....	....	....	3	1	2
Cortland	....	....	....	....	....	....
Delaware	....	....	....	1	....	1
Dutchess	11	2	9	6	3	3
Erie	42	21	21	71	26	45
Essex	1	....	1	....	....	....
Franklin	1	1	....	....	....	....
Fulton	....	....	....	4	2	2
Genesee	8	5	3	9	6	3
Greene	....	....	....	3	3	....
Hamilton	....	....	....	....	....	....
Herkimer	1	1	....	1	1	....
Jefferson	2	....	2	5	....	5
Lewis	....	....	....	....	....	....
Livingston	3	....	3	7	....	7
Madison	....	....	....	6	....	6
Monroe	64	38	26	82	42	40
Montgomery	....	....	....	2	2	....
Nassau	12	6	6	27	11	16
Niagara	6	....	6	10	....	10
Oneida	1	....	1	6	3	3
Onondaga	30	13	17	50	19	31
Ontario	1	1	....	6	1	5
Orange	7	5	2	4	3	1
Orleans	1	....	1	....	....	....
Oswego	1	1	....	1	1	....
Otsego	....	....	....	....	....	....
Putnam	....	....	....	....	....	....
Rensselaer	....	....	....	....	....	....
Rockland	2	2	....	5	2	3
St. Lawrence	1	1	....	....	....	....
Saratoga	2	2	....	12	6	6
Schenectady	10	3	7	7	....	7
Schoharie	2	....	2	6	1	5
Schuyler	....	....	....	....	....	....
Seneca	9	....	9	6	1	5
Steuben	8	2	6	6	3	3
Suffolk	6	5	1	15	10	5
Sullivan	....	....	....	2	1	1
Tioga	....	....	....	3	....	3
Tompkins	1	....	1	1	....	1
Ulster	1	1	....	4	2	2
Warren	1	1	....	5	2	3
Washington	....	....	....	....	....	....
Wayne	5	1	4	16	5	11
Westchester	9	3	6	20	11	9
Wyoming	3	2	1	5	3	2
Yates	....	....	....	....	....	....

Table 73

FAMILY COURT

Child Abuse Part Statistics, by Sex*

January 1, 1980 through December 31, 1980

Region County	Boys						Girls					
			Courts Having Child Abuse Part			Courts Not Having Child Abuse Part			Courts Having Child Abuse Part			Courts Not Having Child Abuse Part
	Total	Dispositions Not Indicating Whether Court Has a Child Abuse Part	Dispositions in Child Abuse Part	Dispositions in Other Than Child Abuse Part	Dispositions Not Indicating Where Disposed	Dispositions	Total	Dispositions Not Indicating Whether Court Has a Child Abuse Part	Dispositions in Child Abuse Part	Dispositions in Other Than Child Abuse Part	Dispositions Not Indicating Where Disposed	Dispositions
Total New York State	523	2	306	25	...	190	762	1	407	38	...	316
Total New York City	263	1	225	22	...	15	328	...	274	37	...	17
New York	74	...	67	7	...	...	59	...	55	4	...	...
Kings	50	...	35	15	...	...	83	...	48	32	...	3
Queens	74	...	74	...	...	...	108	...	108	...	...	...
Bronx	50	1	43	...	...	6	63	...	57	...	...	6
Richmond	15	...	6	...	...	9	15	...	6	1	...	8
Total Upstate	260	1	81	3	...	175	434	1	133	1	...	299
Albany	6	...	...	...	...	6	5	...	...	...	...	5
Allegany	2	...	...	...	...	2	1	...	...	...	...	1
Broome	5	...	...	...	...	5	6	...	1	...	...	5
Cattaraugus	1	...	...	1	...	...	2	...	...	...	...	2
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	5	...	...	...	...	5	6	...	...	...	...	6
Chenango	...	...	...	...	...	...	5	...	...	...	...	5
Clinton	3	...	...	...	...	3	2	...	...	...	...	2
Columbia	...	...	...	...	...	...	2	...	...	...	...	2
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	1	...	...	...	...	1
Dutchess	11	...	...	...	...	11	6	...	...	...	...	6
Erie	42	...	42	...	...	...	69	...	67	...	...	2
Essex	1	...	...	...	...	1	...	...	...	...	...	...
Franklin	1	...	...	...	...	1	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	4	...	...	...	...	4
Genesee	8	...	...	...	...	8	9	...	...	...	...	9
Greene	...	...	...	...	...	...	3	...	...	...	...	3
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	1	1	...	...	...	...	1
Jefferson	2	...	...	...	...	2	5	...	...	...	...	5
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	...	...	...	...	3	7	...	...	...	...	7
Madison	...	...	...	...	...	...	6	...	...	...	...	6
Monroe	58	...	...	...	...	58	77	...	...	...	...	77
Montgomery	...	...	...	...	...	...	2	...	...	...	...	2
Nassau	8	...	...	...	...	8	25	1	...	...	...	24
Niagara	6	...	...	...	...	6	10	...	...	...	...	10
Oneida	1	...	...	...	...	1	6	...	...	...	...	6
Onondaga	30	...	30	...	...	...	50	...	50	...	...	...
Ontario	1	...	...	...	...	1	6	...	1	...	...	5
Orange	7	...	...	...	...	7	4	...	...	...	...	4
Orleans	1	1	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	...	...	1	1	...	...	...	...	1
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	2	...	2	...	...	...	5	...	...	...	...	5
St. Lawrence	1	...	1	...	...	...	...	...	...	...	...	...
Saratoga	2	...	...	...	...	2	12	...	...	...	...	12
Schenectady	7	...	...	...	...	7	7	...	...	...	...	7
Schoharie	2	...	...	...	...	2	6	...	...	...	...	6
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	9	...	...	...	...	9	6	...	...	...	...	6
Steuben	8	...	...	2	...	6	6	...	...	1	...	5
Suffolk	6	...	5	...	...	1	15	...	14	...	...	1
Sullivan	...	...	...	...	...	...	2	...	...	...	...	2
Tioga	...	...	...	...	...	...	3	...	...	...	...	3
Tompkins	1	...	...	...	...	1	1	...	...	...	...	1
Ulster	1	...	...	...	...	1	4	...	...	...	...	4
Warren	1	...	...	...	...	1	5	...	...	...	...	5
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	4	...	...	...	...	4	16	...	...	...	...	16
Westchester	9	...	1	...	...	8	20	...	...	...	...	20
Wyoming	3	...	...	...	...	3	5	...	...	...	...	5
Yates	...	...	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which the reason for petition was abuse or both abuse and neglect regardless of court finding.

Table 74

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)*
Detention by Region and County

January 1, 1980 through December 31, 1980

Region County	Total*	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More
Total New York State	5,067	4,279	24	774	99	82	89	106	274	107	17	. . .
Total New York City	1,384	1,005	7	373	46	37	38	41	124	72	15	. . .
New York	205	165	2	38	6	7	4	5	7	7	2	. . .
Kings	461	340	2	119	23	21	17	9	30	18	1	. . .
Queens	344	243	1	100	8	. . .	8	10	43	25	6	. . .
Bronx	322	222	2	99	7	7	7	17	38	19	4	. . .
Richmond	52	35	. . .	17	2	2	2	. . .	6	3	2	. . .
Total Upstate	3,683	3,274	17	401	53	45	51	65	150	35	2	. . .
Albany	200	134	. . .	66	4	3	12	17	25	4	1	. . .
Allegany	1	1	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Broome	57	54	. . .	3	1	. . .	2	. . .	. . .	. . .	. . .	. . .
Cattaraugus	19	19	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Cayuga	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Chautauqua	48	48	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Chemung	47	46	. . .	1	1	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Chenango	16	15	1	1	1	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Clinton	23	18	. . .	5	. . .	. . .	. . .	4	1	. . .	. . .	. . .
Columbia	23	22	. . .	1	. . .	1	. . .	. . .	. . .	. . .	. . .	. . .
Cortland	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Delaware	11	11	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Dutchess	63	61	. . .	2	2	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Erie	418	343	1	74	10	7	4	7	37	9	. . .	. . .
Essex	12	11	. . .	1	. . .	. . .	. . .	1	. . .	. . .	. . .	. . .
Franklin	9	6	. . .	3	1	1	. . .	1	. . .	. . .	. . .	. . .
Fulton	24	20	2	4	. . .	2	2	. . .	. . .	. . .	. . .	. . .
Genesee	21	21	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Greene	20	19	. . .	1	. . .	1	. . .	. . .	. . .	. . .	. . .	. . .
Hamilton	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Herkimer	17	17	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Jefferson	96	96	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Lewis	1	1	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Livingston	13	11	. . .	2	2	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Madison	28	25	. . .	3	. . .	. . .	3	. . .	. . .	. . .	. . .	. . .
Monroe	214	182	. . .	32	4	3	6	6	9	4	. . .	. . .
Montgomery	28	23	2	4	2	. . .	1	1	. . .	. . .	. . .	. . .
Nassau	338	334	. . .	4	. . .	2	1	. . .	1	. . .	. . .	. . .
Niagara	43	41	. . .	2	1	1	. . .	. . .	. . .	. . .	. . .	. . .
Oneida	62	60	. . .	2	. . .	. . .	2	. . .	. . .	. . .	. . .	. . .
Onondaga	201	143	1	57	3	3	5	7	33	6	. . .	. . .
Ontario	27	25	1	1	. . .	. . .	. . .	. . .	1	. . .	. . .	. . .
Orange	76	72	. . .	4	. . .	. . .	. . .	. . .	2	2	. . .	. . .
Orleans	10	10	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Oswego	31	28	. . .	3	3	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Otsego	4	3	. . .	1	. . .	. . .	. . .	1	. . .	. . .	. . .	. . .
Putnam	14	14	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Rensselaer	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Rockland	34	27	. . .	7	. . .	1	. . .	2	4	. . .	. . .	. . .
St. Lawrence	10	10	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Saratoga	33	30	. . .	3	1	. . .	1	1	. . .	. . .	. . .	. . .
Schenectady	45	40	1	5	1	2	. . .	1	1	. . .	. . .	. . .
Schoharie	8	7	. . .	1	. . .	1	. . .	. . .	. . .	. . .	. . .	. . .
Schuyler	4	3	1	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Seneca	19	18	1	1	. . .	. . .	1	. . .	. . .	. . .	. . .	. . .
Steuben	33	26	. . .	7	1	2	2	1	. . .	1	. . .	. . .
Suffolk	759	703	. . .	56	7	11	7	9	20	2	. . .	. . .
Sullivan	20	20	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Tioga	6	4	. . .	2	1	. . .	. . .	. . .	1	. . .	. . .	. . .
Tompkins	25	22	. . .	3	1	. . .	. . .	1	1	. . .	. . .	. . .
Ulster	48	48	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Warren	31	22	2	9	. . .	2	1	2	4	. . .	. . .	. . .
Washington	42	39	3	1	. . .	1	. . .	. . .	. . .	. . .	. . .	. . .
Wayne	42	40	. . .	2	2	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Westchester	289	261	1	27	4	1	1	3	10	7	1	. . .
Wyoming	16	16	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .
Yates	4	4	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .	. . .

*This table is based on the following reported original petitions disposed of (Boys only): 4669 PINS petitions, plus 398 PINS petitions substituted for Juvenile Delinquency petitions (14 in New York City and 384 outside New York City), regardless of court finding.

Figures in columns 2, 3 and 4 exceed Total because some proceedings are included in both columns 3 and 4. There were 10 such proceedings statewide.

Table 75

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)*
Detention by Region and County

January 1, 1980 through December 31, 1980

			Detained		Length of Detention After Petition							
Region County	**Total***	**Not Detained**	**Before Petition**	**After Petition**	**1-7 Days**	**8-14 Days**	**15-21 Days**	**22-30 Days**	**31-90 Days**	**91-180 Days**	**181-365 Days**	**366 Days Or More**
Total New York State	4,310	3,505	34	791	106	107	108	108	280	65	17	...
Total New York City	1,386	984	9	400	42	56	65	58	124	42	13	...
New York	218	168	7	48	10	10	5	7	13	1	2	...
Kings	545	405	2	140	22	31	31	19	27	10	...	...
Queens	266	173	...	93	5	3	17	14	39	14	1	...
Bronx	293	193	...	100	3	9	10	17	38	14	9	...
Richmond	64	45	...	19	2	3	2	1	7	3	1	...
Total Upstate	2,924	2,521	25	391	64	51	43	50	156	23	4	...
Albany	168	112	...	56	5	3	13	9	24	1	1	...
Allegany	2	2	...	...	...	...	...	...	...	...	...	...
Broome	75	68	...	7	2	...	3	2	...	...	...	...
Cattaraugus	10	10	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	54	54	...	...	...	...	...	...	...	...	...	...
Chemung	35	30	...	5	...	1	1	1	2	...	...	...
Chenango	13	12	1	1	1	...	...	...	...	...	...	...
Clinton	13	9	1	3	...	...	...	1	2	...	...	...
Columbia	9	8	...	1	...	...	...	1	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	9	9	...	...	...	...	...	...	...	...	...	...
Dutchess	60	57	...	3	1	...	...	1	1	...	...	...
Erie	397	321	3	75	10	9	3	9	40	4	...	...
Essex	7	7	...	...	...	...	...	...	...	...	...	...
Franklin	3	3	...	...	...	...	...	...	...	...	...	...
Fulton	13	12	...	1	...	1	...	...	...	...	...	...
Genesee	16	16	...	...	...	...	...	...	...	...	...	...
Greene	19	19	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	16	16	...	...	...	...	...	...	...	...	...	...
Jefferson	58	58	...	...	...	...	...	...	...	...	...	...
Lewis	2	2	...	...	...	...	...	...	...	...	...	...
Livingston	11	11	...	...	...	...	...	...	...	...	...	...
Madison	24	24	...	...	...	...	...	...	...	...	...	...
Monroe	283	212	...	71	3	10	7	8	35	8	...	...
Montgomery	17	17	...	...	...	...	...	...	...	...	...	...
Nassau	244	240	...	4	1	1	2	...	...	...	...	...
Niagara	55	53	1	1	...	...	1	...	...	...	...	...
Oneida	42	40	...	2	1	1	...	...	...	...	...	...
Onondaga	134	99	...	35	4	3	1	5	16	5	1	...
Ontario	24	13	2	10	5	2	2	...	1	...	...	...
Orange	66	62	...	4	...	1	...	...	1	...	2	...
Orleans	4	4	...	...	...	...	...	...	...	...	...	...
Oswego	21	12	...	9	5	4	...	...	...	...	...	...
Otsego	9	7	1	2	1	...	...	...	1	...	...	...
Putnam	12	10	1	2	1	...	...	...	1	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	33	30	1	2	...	...	...	1	...	1	...	...
St. Lawrence	12	12	...	...	...	...	...	...	...	...	...	...
Saratoga	22	18	...	4	...	2	2	...	...	...	...	...
Schenectady	45	41	...	4	1	1	...	2	...	...	...	...
Schoharie	7	6	1	1	1	...	...	...	...	...	...	...
Schuyler	4	4	...	...	...	...	...	...	...	...	...	...
Seneca	14	14	...	...	...	...	...	...	...	...	...	...
Steuben	30	24	1	5	1	1	1	1	1	...	...	...
Suffolk	468	423	...	45	11	6	4	5	16	3	...	...
Sullivan	13	13	...	...	...	...	...	...	...	...	...	...
Tioga	2	1	...	1	...	...	1	...	...	...	...	...
Tompkins	12	9	...	3	1	...	1	...	1	...	...	...
Ulster	39	39	...	...	...	...	...	...	...	...	...	...
Warren	15	8	3	7	1	2	1	2	1	...	...	...
Washington	17	10	7	1	1	...	...	...	...	...	...	...
Wayne	27	25	...	2	2	...	...	...	...	...	...	...
Westchester	226	207	2	19	2	1	...	2	13	1	...	...
Wyoming	12	7	...	5	3	2	...	...	...	...	...	...
Yates	1	1	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Girls only): 4244 PINS petitions, plus 66 PINS petitions substituted for Juvenile Delinquency petitions (6 in New York City and 60 outside New York City), regardless of court finding.

Figures in columns 2, 3 and 4 exceed Total because some proceedings are included in both columns 3 and 4. There were 20 such proceedings statewide.

Table 76

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)*
Nature of Dispositions by Region and County

January 1, 1980 through December 31, 1980

Region County	Total Dispositions	No Adjudication											Adjudication							
																	Placement			
		Dismissed for Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth	Other Placement
Total New York State	5,067	93	...	66	319	251	765	377	734	16	89	...	1	55	187	1,467	19	470	108	50
Total New York City	1,384	31	...	16	218	168	209	179	369	2	...	...	...	...	2	62	...	113	13	2
New York	205	4	...	3	29	21	24	55	45	1	...	...	...	...	2	7	...	12	2	...
Kings	461	5	...	...	99	70	89	52	95	1	...	...	...	...	...	25	...	24	...	1
Queens	344	19	...	5	46	35	31	18	127	...	...	...	...	...	...	10	...	43	9	1
Bronx	322	1	...	3	33	40	52	52	97	...	...	...	...	...	...	13	...	29	2	...
Richmond	52	2	...	5	11	2	13	2	5	...	...	...	...	...	...	7	...	5	...	...
Total Upstate	3,683	62	...	50	101	83	556	198	365	14	89	...	1	55	185	1,405	19	357	95	48
Albany	200	8	...	21	3	1	22	1	10	...	35	...	...	6	13	54	3	18	5	...
Allegany	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...
Broome	57	...	...	3	1	1	...	7	...	1	...	...	...	...	1	27	...	15	1	...
Cattaraugus	19	...	...	...	...	3	4	1	...	...	1	...	...	...	...	6	...	2	2	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	48	1	...	...	3	7	9	2	1	...	...	...	...	...	1	20	...	2	2	...
Chemung	47	...	...	...	...	...	...	...	2	...	1	...	...	...	3	26	...	13	2	...
Chenango	16	...	...	...	...	...	3	1	1	...	...	...	...	...	...	6	...	5	...	...
Clinton	23	...	...	...	...	...	2	...	...	1	...	...	...	...	...	12	...	7	1	...
Columbia	23	...	...	...	...	...	6	1	2	...	...	...	...	...	...	13	...	...	1	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	11	...	...	...	...	...	...	...	...	...	...	...	...	...	2	7	...	2	...	...
Dutchess	63	...	...	...	2	...	11	2	19	...	2	...	...	...	...	17	...	10	...	...
Erie	418	28	...	3	16	19	99	23	8	1	...	...	...	...	6	112	...	31	28	44
Essex	12	...	...	...	...	1	2	...	...	...	...	...	...	...	1	2	...	2	4	...
Franklin	9	...	...	...	1	...	...	...	1	...	...	...	...	...	...	5	...	1	1	...
Fulton	24	...	...	...	...	...	7	...	5	...	...	...	...	...	...	5	...	6	1	...
Genesee	21	...	...	...	...	...	6	...	1	...	2	...	...	...	...	10	1	1	...	...
Greene	20	1	...	...	...	...	2	1	3	1	...	...	...	...	...	8	...	2	1	1
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	17	1	...	...	...	2	...	...	5	...	...	...	...	1	...	4	1	3	...	...
Jefferson	96	2	...	...	1	2	3	...	1	...	1	...	...	38	5	39	1	2	1	...
Lewis	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Livingston	13	...	...	...	...	...	...	1	1	...	...	...	...	...	...	6	...	2	3	...
Madison	28	...	...	...	...	1	11	...	...	...	...	...	...	...	1	4	...	11	...	...
Monroe	214	...	...	...	...	4	53	50	11	...	...	...	...	...	31	40	...	25	...	...
Montgomery	28	1	...	...	...	1	5	3	3	...	3	...	...	...	...	9	1	3	...	...
Nassau	338	3	...	1	5	2	16	4	46	1	10	...	...	1	45	193	...	9	2	...
Niagara	43	...	...	...	4	...	1	4	2	...	...	...	...	3	1	19	...	4	4	1
Oneida	62	3	...	3	...	4	1	1	12	...	...	...	...	...	...	25	...	3	10	...
Onondaga	201	1	...	...	3	1	51	23	21	...	...	...	...	...	6	53	...	38	4	...
Ontario	27	1	...	...	1	...	6	...	2	...	...	...	...	...	1	10	...	6	...	...
Orange	76	...	...	...	1	1	11	11	7	...	1	...	...	...	7	24	1	9	3	...
Orleans	10	...	...	...	...	...	...	1	...	...	...	...	...	...	...	4	...	4	1	...
Oswego	31	1	...	...	1	...	4	...	...	...	...	...	...	...	2	21	...	2	...	...
Otsego	4	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	2	1	...
Putnam	14	...	...	...	...	...	3	1	2	...	...	...	...	...	...	8	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	34	...	...	1	...	...	...	...	3	...	...	...	...	1	...	20	1	8	...	...
St. Lawrence	10	...	...	...	...	...	...	...	...	...	...	...	...	...	...	6	3	1	...	...
Saratoga	33	...	...	...	2	3	11	4	1	...	1	...	...	...	...	6	...	5	...	...
Schenectady	45	...	...	1	1	...	4	2	2	...	3	...	...	...	...	22	2	8	...	...
Schoharie	8	...	...	...	...	...	2	...	...	...	...	...	...	...	1	1	...	2	1	1
Schuyler	4	...	...	...	...	...	...	...	1	...	...	...	...	...	...	2	1	...	...	...
Seneca	19	...	...	...	1	...	10	3	...	...	...	...	...	...	3	...	1	...	1	...
Steuben	33	...	...	1	...	...	2	6	2	...	...	...	...	...	...	15	...	6	1	...
Suffolk	759	9	...	11	39	9	131	14	113	8	...	...	...	1	31	360	...	31	2	...
Sullivan	20	...	...	...	...	2	1	...	3	...	1	...	...	...	...	12	...	1	...	...
Tioga	6	...	...	...	...	...	1	...	...	...	...	...	...	...	...	1	...	2	2	...
Tompkins	25	...	...	...	...	...	5	1	...	...	...	...	...	...	3	14	...	2	...	...
Ulster	48	...	...	1	...	3	11	2	8	...	...	...	...	...	...	12	1	6	4	...
Warren	31	...	...	...	...	...	2	3	...	...	...	...	...	4	...	11	...	10	1	...
Washington	42	1	...	...	2	...	2	2	1	...	...	...	...	...	...	33	...	...	1	...
Wayne	42	1	...	...	3	2	11	10	5	...	...	...	...	...	3	3	...	4	...	...
Westchester	289	...	...	4	11	12	24	12	58	...	28	...	1	...	18	90	...	26	4	1
Wyoming	16	...	...	...	...	1	1	...	3	1	...	...	...	...	...	7	1	2	...	...
Yates	4	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	3	...	...

*This table is based on the following reported original petitions disposed of (Boys only): 4669 PINS petitions, plus 398 PINS petitions substituted for Juvenile Delinquency petitions (14 in New York City and 384 outside New York City), regardless of court finding.

Table 77

FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)*
Nature of Dispositions by Region and County

January 1, 1980 through December 31, 1980

		No Adjudication											Adjudication								
																	Placement			
Region County	Total Dispositions	Dismissed For Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division For Youth	Other Placement
Total New York State	4,310	69	...	57	334	251	678	375	757	11	47	2	...	33	127	1,026	9	421	75	38
Total New York City	1,386	23	...	11	225	194	193	187	380	...	...	2	...	1	4	82	1	72	7	4
New York	218	1	...	2	35	15	22	59	68	...	...	...	...	...	...	4	...	12	...	...
Kings	545	5	...	1	114	105	80	56	126	...	...	2	...	...	...	38	1	11	2	4
Queens	266	12	...	2	35	30	29	10	100	...	...	...	...	1	2	18	...	24	3	...
Bronx	293	1	...	3	26	35	54	53	78	...	...	...	...	...	2	17	...	23	1	...
Richmond	64	4	...	3	15	9	8	9	8	...	...	...	...	...	...	5	...	2	1	...
Total Upstate	2,924	46	...	46	109	57	485	188	377	11	47	...	...	32	123	944	8	349	68	34
Albany	168	5	...	21	4	1	15	...	16	...	11	...	...	5	11	56	...	18	5	...
Allegany	2	...	...	...	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...	...
Broome	75	2	...	...	5	...	...	8	2	...	1	...	...	...	1	26	...	30	...	...
Cattaraugus	10	...	...	...	...	...	4	...	...	...	...	...	...	1	...	1	...	4	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	54	1	...	1	3	3	9	4	5	...	...	...	...	...	...	19	...	9	...	...
Chemung	35	...	...	...	...	...	1	...	5	...	2	...	...	...	5	14	...	7	3	...
Chenango	13	...	...	...	...	...	1	...	...	...	...	...	...	...	...	6	...	6	...	...
Clinton	13	...	...	...	...	...	1	...	1	...	...	...	...	...	...	4	...	7	...	...
Columbia	9	...	...	...	...	...	2	...	...	...	...	...	...	...	...	4	...	1	2	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	9	...	...	...	...	...	2	...	1	...	...	...	...	...	...	6	...	...	...	...
Dutchess	60	...	...	...	3	1	20	9	10	...	1	...	...	...	...	12	...	3	1	...
Erie	397	24	...	4	22	14	80	36	20	1	...	...	...	1	7	104	2	27	26	29
Essex	7	...	...	...	...	...	1	...	...	...	...	...	...	...	...	3	...	3	...	...
Franklin	3	...	...	...	...	...	...	1	1	...	...	...	...	...	...	...	...	1	...	...
Fulton	13	...	...	...	...	...	6	...	1	...	...	...	...	...	...	3	...	3	...	...
Genesee	16	...	...	...	...	...	4	1	3	...	...	...	...	...	1	2	...	5	...	...
Greene	19	...	...	...	2	...	...	1	2	...	...	...	...	...	...	7	1	4	2	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	16	...	...	...	1	...	...	1	8	...	...	...	...	...	1	3	...	2	...	...
Jefferson	58	1	...	1	2	...	3	1	1	...	1	...	...	15	3	25	1	4	...	...
Lewis	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...
Livingston	11	...	...	...	...	...	2	...	...	...	...	...	...	...	2	4	...	3	...	...
Madison	24	...	...	...	1	1	11	...	3	...	...	...	...	...	1	3	...	4	...	...
Monroe	283	...	...	...	...	6	79	54	12	1	...	...	...	...	55	41	...	35	...	...
Montgomery	17	...	...	...	...	...	5	1	2	...	1	...	...	...	...	6	...	2	...	...
Nassau	244	3	...	1	4	3	9	4	49	1	5	...	...	4	10	144	...	5	1	1
Niagara	55	1	...	2	3	...	...	1	5	...	...	...	...	3	...	26	...	3	9	2
Oneida	42	1	...	3	...	1	...	1	11	1	...	...	...	...	...	12	...	6	6	...
Onondaga	134	...	...	...	5	5	38	13	20	1	...	...	...	...	1	29	...	17	5	...
Ontario	24	...	...	...	1	...	3	1	1	...	...	...	...	...	...	12	...	6	...	...
Orange	66	...	...	1	...	...	3	16	7	...	2	...	...	...	2	16	...	19	...	...
Orleans	4	...	...	...	...	...	...	1	...	...	...	...	...	...	...	1	...	2	...	...
Oswego	21	...	...	...	...	...	...	...	2	...	...	...	...	...	1	14	...	4	...	...
Otsego	9	1	...	...	...	...	...	1	...	...	...	...	...	...	...	3	...	3	1	...
Putnam	12	...	...	...	...	...	...	2	5	...	...	...	...	...	...	4	...	1	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	33	...	...	...	2	...	3	...	2	...	...	...	...	1	...	19	...	6	...	...
St. Lawrence	12	...	...	...	1	...	2	...	...	...	...	...	...	...	...	6	...	3	...	...
Saratoga	22	...	...	...	1	...	3	...	2	...	...	...	...	...	1	11	...	4	...	...
Schenectady	45	...	...	2	1	...	3	2	4	2	...	...	...	...	1	19	...	9	2	...
Schoharie	7	...	...	...	...	...	...	...	3	...	...	...	...	...	1	...	...	3	...	...
Schuyler	4	...	...	...	...	1	...	...	1	...	...	...	...	...	...	2	...	...	...	...
Seneca	14	...	...	...	3	...	5	1	...	...	...	...	...	...	4	...	...	...	1	...
Steuben	30	4	...	2	...	1	7	2	4	...	1	...	...	...	...	2	...	6	...	1
Suffolk	468	3	...	8	33	7	114	4	112	2	...	...	...	...	3	167	...	13	2	...
Sullivan	13	...	...	...	...	2	...	1	2	...	1	...	...	...	1	2	...	3	1	...
Tioga	2	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	1	...	...
Tompkins	12	...	...	...	...	1	3	...	...	...	...	...	...	...	2	6	...	...	...	...
Ulster	39	...	...	...	1	1	13	2	3	...	...	...	...	...	1	11	...	7	...	...
Warren	15	...	...	...	...	...	2	...	2	...	1	...	...	2	...	2	1	5	...	...
Washington	17	...	...	...	...	...	...	1	...	...	...	...	...	...	1	8	2	4	1	...
Wayne	27	...	...	...	1	2	10	5	1	...	1	...	...	...	...	2	...	5	...	...
Westchester	226	...	...	...	10	7	18	11	48	2	19	...	...	...	7	75	...	28	...	1
Wyoming	12	...	...	...	...	...	2	1	...	...	...	...	...	...	...	2	1	6	...	...
Yates	1	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Girls only): 4244 PINS petitions, plus 66 PINS petitions substituted for Juvenile Delinquency petitions (6 in New York City and 60 outside New York City), regardless of court finding.

Table 78

FAMILY COURT

Original Petitions Initially Disposed
Reasons for Juvenile Delinquency Proceedings by Sex and by Region

January 1, 1980 through December 31, 1980

Reasons*	New York City			Counties Outside New York City			Statewide		
	Boys Percent	Girls Percent	Both Percent	Boys Percent	Girls Percent	Both Percent	Boys Percent	Girls Percent	Both Percent
Homicide	0 (15)	0 (1)	0 (16)	0 (12)	0 (1)	0 (13)	0 (27)	0 (2)	0 (29)
Kidnapping	0 (37)	0 (3)	0 (40)	0 (0)	0 (0)	0 (0)	0 (37)	0 (3)	0 (40)
Rape	1	0 (3)	1	0 (28)	0 (0)	0 (28)	1	0 (3)	0 (104)
Other Sex Offenses	1	0 (5)	1	1	0 (1)	1	1	0 (6)	1
Robbery	11	10	11	4	2	3	8	6	7
Assault or Related Offense	8	15	8	6	13	7	7	14	8
Criminal Sale Control Substance	0 (54)	0 (4)	0 (58)	0 (37)	1	0 (45)	0 (91)	0 (12)	0 (103)
Criminal Possession Control Substance	1	1	1	1	1	1	1	1	1
Other Drug Offense	0 (9)	0 (0)	0 (9)	0 (5)	0 (0)	0 (5)	0 (14)	0 (0)	0 (14)
Criminal Possession of Weapon	4	5	4	1	0 (4)	1	3	2	3
Burglary or Related Offense	11	7	11	27	10	25	19	9	18
Criminal Trespass	8	4	8	4	4	4	6	4	6
Arson	0 (42)	1	0 (49)	1	1	1	1	1	1
Grand Larceny — Auto	3	2	3	2	1	2	2	2	2
Grand Larceny	13	12	13	7	5	7	10	8	10
Petit Larceny	6	8	6	17	32	19	11	21	12
Criminal Possession of Stolen Property	17	17	17	6	5	6	12	11	12
Other Theft	3	4	3	4	3	4	3	3	3
Criminal Mischief	8	6	8	11	6	10	9	6	9
Gambling	0 (0)	0 (0)	0 (0)	0 (2)	0 (0)	0 (2)	0 (2)	0 (0)	0 (2)
Prostitution	0 (4)	1	0 (10)	0 (3)	1	0 (18)	0 (7)	1	0 (28)
Other Crimes	5	7	5	8	15	9	6	11	7
Total	100 (13,309)	100 (1,191)	100 (14,500)	100 (11,690)	100 (1,471)	100 (13,161)	100 (24,999)	100 (2,662)	100 (27,661)

*Due to the reporting of multiple reasons for some petitions, the number of reasons exceeds the number of petitions.
NOTE: Figures in parentheses represent the number of reasons. They are given for totals and where the sum is less than 0.5%.

Table 79

FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Boys Only)*
Detention by Region and County

January 1, 1980 through December 31, 1980

Region County	Total*	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days or More
Total New York State	15,417	12,903	151	2,474	825	366	221	268	611	157	25	1
Total New York City	6,066	4,751	42	1,307	567	146	74	105	297	101	16	1
New York	1,091	832	24	256	86	35	13	23	70	24	5	...
Kings	2,108	1,714	3	392	199	45	22	30	68	24	4	...
Queens	1,476	1,114	11	359	179	28	18	19	73	35	6	1
Bronx	1,268	986	4	282	97	38	20	29	79	18	1	...
Richmond	123	105	...	18	6	...	1	4	7	...	...	...
Total Upstate	9,351	8,152	109	1,167	258	220	147	163	314	56	9	...
Albany	397	321	...	76	5	9	16	13	28	5	...	...
Allegany	2	2	...	....	...	...	...	...	...	...	...	...
Broome	231	217	...	14	4	6	2	2	...	...	...	...
Cattaraugus	92	84	2	8	3	3	1	...	1	...	...	...
Cayuga	.....	.....	...	....	...	...	...	...	...	...	...	...
Chautauqua	176	175	...	1	...	...	...	1	...	...	...	...
Chemung	106	101	...	5	...	...	3	...	...	2	...	...
Chenango	34	33	1	....	...	...	...	...	...	...	...	...
Clinton	19	13	...	4	...	...	...	6	...	...	...	...
Columbia	34	29	...	5	...	2	2	1	...	...	...	...
Cortland	.....	.....	...	....	...	...	...	...	...	...	...	...
Delaware	24	19	...	5	...	...	...	...	...	5	...	...
Dutchess	237	233	...	16	2	3	...	3	7	1	...	...
Erie	1,087	960	6	125	21	16	18	15	46	8	1	...
Essex	29	25	2	4	3	...	...	...	1	...	...	...
Franklin	32	26	...	6	...	1	...	2	3	...	...	...
Fulton	48	37	1	11	4	...	6	...	1	...	...	...
Genesee	31	27	1	4	2	1	...	1	...	...	...	...
Greene	15	14	...	1	1	...	...	...	...	...	...	...
Hamilton	18	18	...	....	...	...	...	...	...	...	...	...
Herkimer	11	11	...	....	...	...	...	...	...	...	...	...
Jefferson	151	145	3	4	1	2	...	1	...	...	...	...
Lewis	.....	.....	...	....	...	...	...	...	...	...	...	...
Livingston	38	37	...	1	...	1	...	...	...	...	...	...
Madison	84	82	...	2	1	...	...	1	...	...	...	...
Monroe	714	496	9	217	53	27	23	28	72	13	1	...
Montgomery	26	24	...	2	...	1	1	...	...	...	...	...
Nassau	1,002	873	...	129	38	37	25	14	15	...	...	...
Niagara	88	78	2	9	4	3	1	1	...	...	...	...
Oneida	112	84	...	28	3	5	4	9	6	1	...	...
Onondaga	541	373	23	160	34	40	16	24	40	5	1	...
Ontario	56	50	2	6	3	...	...	1	2	...	...	...
Orange	358	338	5	19	2	1	1	1	12	2	...	...
Orleans	26	25	1	1	...	1	...	...	...	...	...	...
Oswego	48	36	2	11	4	4	1	1	1	...	...	...
Otsego	42	41	1	1	...	...	...	...	1	...	...	...
Putnam	44	39	1	5	2	...	...	1	2	...	...	...
Rensselaer	.....	.....	...	....	...	...	...	...	...	...	...	...
Rockland	195	175	2	19	1	3	1	9	3	1	1	...
St. Lawrence	37	33	...	4	1	1	...	...	...	2	...	...
Saratoga	221	215	...	6	2	...	1	1	2	...	...	...
Schenectady	157	140	1	16	1	4	4	...	4	3	...	...
Schoharie	9	8	1	1	...	...	...	1	...	...	...	...
Schuyler	.....	.....	...	....	...	...	...	...	...	...	...	...
Seneca	24	22	...	2	...	1	...	...	1	...	...	...
Steuben	64	55	1	9	3	3	2	1	...	...	...	...
Suffolk	1,493	1,384	1	109	32	22	10	9	33	3	...	...
Sullivan	76	73	...	3	...	...	...	2	1	...	...	...
Tioga	9	8	...	1	...	...	...	...	...	1	...	...
Tompkins	57	42	...	15	4	...	1	3	7	...	...	...
Ulster	195	182	3	12	2	4	1	1	4	...	...	...
Warren	49	44	2	5	...	2	1	...	1	1	...	...
Washington	35	25	9	7	...	6	1	...	...	...	...	...
Wayne	79	71	2	8	4	1	...	1	1	1	...	...
WEstchester	654	579	25	66	16	10	5	9	19	2	5	...
Wyoming	38	37	...	1	1	...	...	...	...	...	...	...
Yates	6	5	...	1	1	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Boys only): 15,019 Juvenile Delinquency petitions minus 398 Juvenile Delinquency petitions for which there were substituted PINS petitions (14 in New York City and 384 outside New York City), regardless of court finding.

Figures in columns 2, 3 and 4 exceed Total because some proceedings are included in both columns 3 and 4. There were 111 such proceedings statewide.

Table 80

FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Girls Only)*
Detention by Region and County

January 1, 1980 through December 31, 1980

Region County	Total*	Not Detained	Detained		Length of Detention After Petition							
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More
Total New York State	1,923	1,609	29	309	92	58	26	33	77	21	2	...
Total New York City	601	500	3	101	37	13	8	9	19	13	2	...
New York	112	83	2	29	15	3	1	1	4	4	1	...
Kings	189	170	...	19	10	3	3	...	2	1	...	...
Queens	156	129	1	27	6	4	1	4	7	4	1	...
Bronx	118	98	...	20	5	3	2	3	3	4	...	...
Richmond	26	20	...	6	1	...	1	1	3	...	...	...
Total Upstate	1,322	109	26	208	55	45	18	24	58	8	...	...
Albany	90	69	...	21	1	5	2	5	8	...	...	...
Allegany	1	1	...	...	...	...	...	...	...	...	...	...
Broome	35	33	...	2	1	...	...	...	1	...	...	...
Cattaraugus	6	6	...	...	...	...	...	...	...	...	...	...
Cayuga	....	....	...	...	...	...	...	...	...	...	...	...
Chautauqua	16	16	...	...	...	...	...	...	...	...	...	...
Chemung	18	18	...	...	...	...	...	...	...	...	...	...
Chenango	5	5	...	...	...	...	...	...	...	...	...	...
Clinton	4	2	1	1	...	...	...	1	...	...	...	...
Columbia	2	2	...	...	...	...	...	...	...	...	...	...
Cortland	....	....	...	...	...	...	...	...	...	...	...	...
Delaware	3	2	...	1	...	...	1	...	...	...	...	...
Dutchess	32	31	...	1	...	...	1	...	...	...	...	...
Erie	168	137	9	30	6	6	3	6	7	2	...	...
Essex	2	2	...	...	...	...	...	...	...	...	...	...
Franklin	1	1	...	...	...	...	...	...	...	...	...	...
Fulton	10	10	...	...	...	...	...	...	...	...	...	...
Genesee	5	4	...	1	1	...	...	...	...	...	...	...
Greene	2	2	...	...	...	...	...	...	...	...	...	...
Hamilton	1	1	...	...	...	...	...	...	...	...	...	...
Herkimer	....	....	...	...	...	...	...	...	...	...	...	...
Jefferson	20	19	...	1	1	...	...	...	...	...	...	...
Lewis	2	2	...	...	...	...	...	...	...	...	...	...
Livingston	9	8	1	1	1	...	...	...	...	...	...	...
Madison	9	9	...	...	...	...	...	...	...	...	...	...
Monroe	124	87	3	37	6	5	2	4	17	3	...	...
Montgomery	4	4	...	...	...	...	...	...	...	...	...	...
Nassau	175	137	1	37	12	18	3	2	2	...	...	...
Niagara	19	17	1	2	2	...	...	...	...	...	...	...
Oneida	13	10	...	3	1	...	1	...	1	...	...	...
Onondaga	85	53	5	32	8	4	1	2	14	3	...	...
Ontario	5	4	1	1	...	...	...	1	...	...	...	...
Orange	55	52	1	2	...	1	...	...	1	...	...	...
Orleans	1	1	...	...	...	...	...	...	...	...	...	...
Oswego	4	4	...	...	...	...	...	...	...	...	...	...
Otsego	5	5	...	...	...	...	...	...	...	...	...	...
Putnam	6	6	...	...	...	...	...	...	...	...	...	...
Rensselaer	....	....	...	...	...	...	...	...	...	...	...	...
Rockland	5	5	...	...	...	...	...	...	...	...	...	...
St. Lawrence	1	1	...	...	...	...	...	...	...	...	...	...
Saratoga	13	11	...	2	2	...	...	...	...	...	...	...
Schenectady	13	11	...	2	...	...	...	2	...	...	...	...
Schoharie	....	....	...	...	...	...	...	...	...	...	...	...
Schuyler	1	1	...	...	...	...	...	...	...	...	...	...
Seneca	6	6	...	...	...	...	...	...	...	...	...	...
Steuben	7	7	...	...	...	...	...	...	...	...	...	...
Suffolk	153	140	...	13	5	3	1	...	4	...	...	...
Sullivan	14	13	1	1	1	...	...	...	...	...	...	...
Tioga	....	....	...	...	...	...	...	...	...	...	...	...
Tompkins	10	7	...	3	2	...	...	...	1	...	...	...
Ulster	24	23	...	1	...	1	...	...	...	...	...	...
Warren	9	9	...	...	...	...	...	...	...	...	...	...
Washington	2	1	1	1	...	...	1	...	...	...	...	...
Wayne	9	8	...	1	...	1	...	...	...	...	...	...
Westchester	115	103	1	11	5	1	2	1	2	...	...	...
Wyoming	3	3	...	...	...	...	...	...	...	...	...	...
Yates	....	....	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Girls only): 1989 Juvenile Delinquency petitions minus 66 Juvenile Delinquency petitions for which there were substituted PINS petitions (6 in New York City and 60 outside New York City), regardless of court finding.

Figures in columns 2, 3 and 4 exceed Total because some proceedings are included in both columns 3 and 4. There were 24 such proceedings statewide.

Table 81

FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Boys Only)*
Nature of Dispositions by Region and County

January 1, 1980 through December 31, 1980

Region County	Total Dispositions	No Adjudication											Adjudication											
																	Placement						
		Dismissed for Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3	Restrictive Placement (DFY) 5 Yrs.	Restrictive Placement (DFY) 3 Yrs.	Other Placement
Total New York State	15.417	447	8	208	786	585	4.402	1.443	1.475	365	387	3	...	7	579	3.002	16	520	546	573	3	11	51
Total New York City	6.066	158	5	52	499	264	1.750	727	825	195	13	1	...	1	115	804	1	46	399	181	3	4	23
New York	1.091	53	5	19	100	24	118	98	128	157	...	...	...	...	30	161	...	12	103	71	...	2	10
Kings	2.108	8	...	2	174	178	638	404	345	...	1	...	...	...	1	295	1	12	30	7	...	...	12
Queens	1.476	64	...	12	81	43	611	68	192	22	2	...	...	1	25	151	...	7	146	51	...	...	...
Bronx	1.268	28	...	16	136	19	318	150	157	8	8	1	...	...	54	185	...	13	120	50	3	2	...
Richmond	123	5	...	3	8	...	65	7	3	8	2	...	...	...	5	12	...	2	...	2	...	...	1
Total Upstate	9.351	209	3	156	287	321	2.652	716	650	170	374	2	...	6	464	2.198	15	474	147	392	...	7	28
Albany	397	31	...	16	16	3	127	3	8	7	...	2	...	2	29	77	...	25	8	43	...	...	...
Allegany	2	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Broome	231	6	2	1	2	...	2	57	7	5	...	...	...	...	7	94	...	25	3	20	...	...	...
Cattaraugus	92	4	...	...	2	4	19	6	5	6	...	...	...	...	1	26	4	4	4	7	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	176	12	...	...	1	33	56	5	...	5	...	...	...	...	...	49	...	5	1	9	...	...	...
Chemung	106	3	...	1	8	...	8	1	3	...	5	...	...	...	2	38	...	18	...	19	...	...	...
Chenango	34	...	...	...	...	1	15	...	...	...	3	...	...	...	1	10	...	4	...	...	...	...	...
Clinton	19	...	...	...	...	...	2	...	...	...	...	...	...	...	...	10	...	3	2	2	...	...	...
Columbia	34	...	...	2	...	3	13	1	...	...	...	...	...	...	...	9	...	1	2	3	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	24	...	...	...	...	2	4	...	...	...	...	...	...	...	2	8	...	...	2	6	...	...	...
Dutchess	237	6	...	...	10	1	51	22	17	3	34	...	...	...	11	44	...	29	3	6	...	...	...
Erie	1.087	115	...	7	25	88	514	38	7	3	...	...	...	...	22	178	...	13	16	41	...	...	20
Essex	29	...	...	...	...	9	...	6	...	2	3	...	...	...	...	5	...	...	1	3	...	...	...
Franklin	32	...	...	...	1	...	1	1	...	...	...	...	...	...	5	19	1	3	...	1	...	...	...
Fulton	48	...	...	...	...	...	19	5	2	...	...	...	...	...	1	10	...	6	1	4	...	...	...
Genesee	31	...	...	...	...	...	17	5	2	...	...	...	...	...	1	3	...	2	1	...	...	...	...
Greene	15	...	...	...	3	...	...	2	...	...	...	...	...	...	...	4	...	...	2	4	...	...	...
Hamilton	18	...	...	...	...	...	6	...	...	...	...	...	...	...	2	10	...	...	...	...	...	...	...
Herkimer	11	...	...	2	...	...	...	...	2	...	...	...	...	...	1	1	...	2	2	...	...	...	1
Jefferson	151	9	...	2	4	...	17	14	...	...	9	...	...	3	6	73	...	2	...	12	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	38	1	...	...	...	1	7	2	2	...	...	...	...	...	1	20	...	...	4	...	...	...	...
Madison	84	2	...	4	2	2	20	...	5	1	...	...	...	...	9	27	...	9	3	...	...	...	...
Monroe	714	...	...	...	1	10	301	115	10	...	6	...	...	...	77	109	...	29	4	52	...	...	...
Montgomery	26	...	...	...	...	2	4	3	1	...	4	...	...	...	...	6	...	4	...	2	...	...	...
Nassau	1.002	9	...	1	18	14	143	22	26	70	121	...	...	...	147	346	...	51	6	26	...	2	...
Niagara	88	5	...	...	1	...	11	6	7	...	1	...	...	...	3	38	...	2	11	3	...	...	...
Oneida	112	15	...	2	...	2	4	9	5	2	...	...	...	...	...	38	...	3	22	10	...	...	...
Onondaga	541	3	...	...	20	12	246	101	33	...	...	...	...	...	7	59	...	28	13	19	...	...	...
Ontario	56	...	...	...	...	...	9	2	2	1	...	...	...	...	1	31	2	5	3	...	...	...	...
Orange	358	7	...	4	4	...	90	78	8	...	9	...	...	...	14	97	...	27	2	16	...	2	...
Orleans	26	...	...	...	...	1	...	5	...	1	...	...	...	...	...	16	...	...	1	2	...	...	...
Oswego	48	...	...	...	1	...	6	...	...	...	1	...	...	...	5	28	...	4	...	1	...	2	...
Otsego	42	5	...	...	...	...	1	1	...	...	...	...	...	...	14	16	...	3	1	1	...	...	...
Putnam	44	1	...	...	1	...	11	3	4	...	...	...	...	...	...	18	...	1	...	5	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	195	7	...	...	5	7	36	1	19	1	2	...	...	...	...	75	...	34	2	5	...	...	1
St. Lawrence	37	4	...	1	1	4	...	2	...	...	...	...	...	...	...	11	4	5	2	...	...	...	3
Saratoga	221	2	...	4	3	24	92	25	1	1	1	...	...	...	...	53	...	11	...	4	...	...	...
Schenectady	157	...	...	1	4	3	13	1	14	3	21	...	...	...	...	64	1	23	2	7	...	...	...
Schoharie	9	...	...	...	...	1	2	...	1	...	...	...	...	...	...	2	...	...	...	3	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	24	...	...	...	2	...	8	1	...	2	2	...	...	...	3	4	...	1	...	1	...	...	...
Steuben	64	7	...	4	5	...	8	7	4	...	1	...	...	...	1	19	...	4	3	...	...	1	...
Suffolk	1.493	12	1	99	129	57	425	50	386	14	1	...	...	...	40	228	...	30	...	20	...	...	1
Sullivan	76	1	...	...	...	11	31	4	...	...	6	...	...	...	2	9	1	4	1	6	...	...	...
Tioga	9	...	...	...	...	1	3	...	...	...	...	...	...	...	...	...	...	3	2	...	...	...	...
Tompkins	57	1	...	1	1	...	8	23	2	1	...	...	...	...	...	16	...	4	...	...	...	...	...
Ulster	195	1	...	...	3	9	42	48	12	...	...	...	...	...	6	46	2	9	11	6	...	...	...
Warren	49	...	...	...	3	...	17	6	3	...	...	...	...	1	...	8	...	7	...	4	...	...	...
Washington	35	5	...	...	...	...	8	...	...	...	...	...	...	...	2	7	...	6	1	5	...	...	1
Wayne	79	...	...	2	4	1	23	6	2	...	1	...	...	...	7	22	...	9	...	2	...	...	...
Westchester	654	13	...	2	7	15	197	26	49	41	143	...	...	...	34	97	...	15	5	9	...	...	1
Wyoming	38	2	...	...	...	...	15	2	...	1	...	...	...	...	...	15	...	1	...	2	...	...	...
Yates	6	...	...	...	...	...	...	...	1	...	...	...	...	...	...	5	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Boys only): 15.019 Juvenile Delinquency petitions minus 398 Juvenile Delinquency petitions for which there were substituted PINS petitions (14 in New York City and 384 outside New York City), regardless of court finding.

Table 82

FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinqueny Proceedings (Girls Only)*
Nature of Dispositions by Region and County

January 1, 1980 through December 31, 1980

Region County	Total Dispositions	No Adjudication											Adjudication										
																	Placement						
		Dismissed for Failure of Proof at Fact-Finding Hearing	Other Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed for Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged to Mental Hygiene Institution	Discharged to Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3	Restrictive Placement (DFY) 5 Yrs.	Restrictive Placement (DFY) 3 Yrs.	Other Placement
Total New York State	1.923	67	1	19	69	54	674	219	167	68	34	...	...	1	52	317	3	83	30	58	...	...	7
Total New York City	601	18	1	5	34	26	218	83	82	22	...	...	...	...	9	72	...	6	18	7	...	...	...
New York	112	9	...	2	4	4	14	16	12	18	...	...	...	...	2	20	...	2	7	2	...	...	...
Kings	189	2	1	...	10	19	67	38	27	1	...	...	...	...	...	18	...	3	1	2	...	...	...
Queens	156	7	...	2	9	2	71	12	28	...	...	...	...	...	1	16	...	...	6	2	...	...	...
Bronx	118	...	...	1	7	...	55	16	13	...	...	...	...	...	3	17	...	1	4	1	...	...	...
Richmond	26	...	...	...	4	1	11	1	2	3	...	...	...	...	3	1	...	...	...	...	...	...	...
Total Upstate	1.322	49	...	14	35	28	456	136	85	46	34	...	...	1	43	245	3	77	12	51	...	...	7
Albany	90	12	...	2	2	1	26	1	2	3	...	...	...	...	4	16	...	4	1	16	...	...	...
Allegany	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...
Broome	35	3	...	...	...	...	...	17	...	...	...	...	...	...	1	4	...	6	...	4	...	...	...
Cattaraugus	6	...	...	1	...	...	3	...	...	...	...	...	...	...	...	2	...	...	...	...	...	...	...
Cayuga	....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	16	...	...	...	1	...	9	...	...	...	...	...	...	...	1	4	...	1	...	...	...	...	...
Chemung	18	...	...	...	...	...	2	...	...	...	1	...	...	...	1	7	...	7	...	...	...	...	...
Chenango	5	...	...	1	...	...	2	...	1	...	...	...	...	...	...	...	...	1	...	...	...	...	...
Clinton	4	...	...	1	...	...	...	...	...	...	...	...	...	...	...	1	...	2	...	...	...	...	...
Columbia	2	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	1	1	...	...	...	...
Dutchess	32	...	...	...	2	...	11	3	3	...	1	...	...	...	...	9	...	3	...	...	...	...	...
Erie	168	14	...	1	7	14	87	16	1	1	...	...	...	...	2	15	...	2	...	2	...	...	6
Essex	2	...	...	...	...	...	...	...	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Fulton	10	...	...	...	...	...	6	...	...	...	...	...	...	...	...	2	...	1	1	...	...	...	...
Genesee	5	...	...	...	...	...	2	...	2	1	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	2	...	...	...	...	...	1	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...
Hamilton	1	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	20	2	...	...	...	...	8	1	...	...	...	...	...	...	1	6	...	...	1	1	...	...	...
Lewis	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	1	...	...	...	...	...
Livingston	9	...	...	...	...	1	3	1	2	...	...	...	...	...	1	...	...	1	...	...	...	...	...
Madison	9	...	...	1	...	...	5	1	...	...	...	...	...	...	...	1	...	1	...	...	...	...	...
Monroe	124	...	...	...	1	2	50	29	1	...	...	...	...	...	6	17	...	5	...	13	...	...	...
Montgomery	4	...	...	...	...	...	...	2	...	...	...	...	...	...	...	2	...	...	...	...	...	...	...
Nassau	175	2	...	...	3	1	28	5	7	25	16	...	...	1	9	59	...	13	...	5	...	...	1
Niagara	19	3	...	...	1	...	...	...	4	...	...	...	...	...	...	7	1	...	2	1	...	...	...
Oneida	13	2	...	...	...	...	1	...	...	...	...	...	...	...	...	6	...	3	1	...	...	...	...
Onondaga	85	1	...	...	5	2	38	18	6	...	...	...	...	...	3	4	...	2	1	5	...	...	...
Ontario	5	...	...	...	...	...	1	...	...	...	...	...	...	...	...	4	...	...	...	...	...	...	...
Orange	55	...	...	...	...	1	26	11	4	1	...	...	...	...	2	4	...	6	...	...	...	...	...
Orleans	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	4	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	1	1	...	...	...	...
Otsego	5	...	...	...	...	...	...	1	...	...	...	...	...	...	1	3	...	...	...	...	...	...	...
Putnam	6	...	...	...	...	...	5	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	5	...	...	...	...	...	2	...	...	...	...	...	...	...	...	3	...	...	...	...	...	...	...
St. Lawrence	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Saratoga	13	...	...	...	...	2	2	2	...	...	...	...	...	...	...	5	...	1	...	1	...	...	...
Schenectady	13	...	...	...	...	...	...	2	1	...	1	...	...	...	...	6	...	1	2	...	...	...	...
Schoharie	....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...
Seneca	6	1	...	...	...	1	1	...	...	...	...	...	...	...	1	2	...	...	...	...	...	...	...
Steuben	7	3	...	1	...	...	...	2	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...
Suffolk	153	2	...	5	8	2	64	4	37	5	1	...	...	...	4	18	...	3	...	...	...	...	...
Sullivan	14	1	...	...	...	...	3	...	1	...	...	...	...	...	3	5	...	1	...	...	...	...	...
Tioga	....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	10	...	...	...	...	...	1	4	...	1	...	...	...	...	...	3	...	1	...	...	...	...	...
Ulster	24	...	...	...	1	...	8	5	3	...	...	...	...	...	...	5	...	...	1	1	...	...	...
Warren	9	2	...	...	...	...	2	1	...	...	...	...	...	...	...	3	...	1	...	...	...	...	...
Washington	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	1	...	...	...	...	...
Wayne	9	...	...	1	1	...	4	...	...	...	...	...	...	...	1	2	...	...	...	...	...	...	...
Westchester	115	...	...	...	3	1	51	9	9	7	14	...	...	...	2	11	...	7	...	1	...	...	...
Wyoming	3	...	...	...	...	...	2	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...
Yates	....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

*This table is based on the following reported original petitions disposed of (Girls only): 1989 Juvenile Delinquency petitions minus 66 Juvenile Delinquency petitions for which there were substituted PINS petitions (6 in New York City and 60 outside New York City), regardless of court finding.

Table 83

FAMILY COURT

Original Petitions Initially Disposed
Original Allegations* of Family Offense Proceedings by Region

January 1, 1980 through December 31, 1980

Region	Total	Assault	Attempted Assault	Reckless Endangerment	Menacing	Disorderly Conduct	Harrassment	Other
Total New York State	23,562	10,354	510	428	1,770	4,213	6,280	7
Total New York City	10,745	4,808	143	116	1,151	1,725	2,795	7
Total Upstate	12,817	5,546	367	312	619	2,488	3,485	0

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*Figures represent the total number of allegations. Since many petitions contain more than one allegation, the total number of such allegations may be greater than the total number of petitions disposed.

Table 84

FAMILY COURT

Family Offense Proceedings

Original Petitions Initially Disposed by Petitioners and Respondents

January 1, 1980 through December 31, 1980

A. New York City

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	5,097	5,092	4	0	0	0	0	0	1
Father of Injured Individual	64	1	0	0	1	42	16	0	4
Wife of Injured Individual	277	0	2	275	0	0	0	0	0
Mother of Injured Individual	60	0	6	4	0	24	18	1	7
Son of Injured Individual	704	2	531	0	168	0	2	0	1
Daughter of Injured Individual	199	0	164	0	33	0	0	0	2
Other Member of Same Family of Household of Injured Individual	197	0	1	0	0	0	0	195	1
Other	80	0	0	0	0	0	0	0	80
Total*	6,678	5,095	708	279	202	66	36	196	96

*This table excluded one petition that was included in Table 3-69.

B. Outside New York City

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	8,105	8,092	2	0	0	4	2	0	5
Father of Injured Individual	244	60	6	0	0	92	60	11	15
Wife of Injured Individual	700	0	3	695	1	0	0	0	1
Mother of Injured Individual	84	0	1	9	1	38	29	3	3
Son of Injured Individual	754	1	511	0	232	2	3	2	3
Daughter of Injured Individual	208	0	153	1	50	1	0	1	2
Other Member of Same Family or Household of Injured Individual	278	0	14	0	0	1	1	257	5
Other	110	0	3	0	0	0	0	0	107
Total	10,483	8,153	693	705	284	138	95	274	141

*This table excluded 5 petitions that were included in table 3-69.

C. Statewide

Respondents	Petitioners								
	Total*	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	13,202	13,184	6	0	0	4	2	0	6
Father of Injured Individual	308	61	6	0	1	134	76	11	19
Wife of Injured Individual	977	0	5	970	1	0	0	0	1
Mother of Injured Individual	144	0	7	13	1	62	47	4	10
Son of Injured Individual	1,458	3	1,042	0	400	2	5	2	4
Daughter of Injured Individual	407	0	317	1	83	1	0	1	4
Other Member of Same Family or Household of Injured Individual	475	0	15	0	0	1	1	452	6
Other	190	0	3	0	0	0	0	0	187
Total*	17,161	13,248	1,401	984	486	204	131	470	237

*This table excluded 6 petitions that were included in Table 3-69.

Table 85

FAMILY COURT

Dispositions of Family Offense Proceedings by Region and County All Petitions

January 1, 1980 through December 31, 1980

Region County	Total	Dismissed Failure of Proof	Dismissed Failure to Prosecute	Other Dismissal	Withdrawn	Transfer to Another County	Consolidated With Another Petition	Judgment Suspended	Probation	Order of Protection	Probation and Order of Protection	Other
Total New York State	17,167	347	4,981	1,711	3,160	9	83	18	17	6,629	31	169
Total New York City	6,679	167	3,058	1,028	502	3	35	0	4	1,799	9	72
New York	1,173	19	445	157	117	2	1	0	0	421	5	6
Kings	2,328	33	1,474	240	163	1	5	0	0	395	3	14
Queens	2,037	104	717	323	165	0	29	0	2	686	1	8
Bronx	553	8	61	276	37	0	0	0	2	127	0	42
Richmond	588	3	361	32	20	0	0	0	0	170	0	2
Total Upstate	10,488	180	1,923	683	2,658	6	48	18	13	4,830	22	97
Albany	410	1	82	2	133	0	1	0	1	186	0	2
Allegany	20	0	3	1	3	0	0	0	0	13	0	0
Broome	412	13	101	22	9	0	1	6	0	254	1	5
Cattaraugus	7	0	2	1	0	0	1	0	0	0	3	0
Cayuga	0	0	0	0	0	0	0	0	0	0	0	0
Chautauqua	89	1	31	7	4	0	0	0	0	45	1	0
Chemung	41	0	3	4	4	0	0	0	0	22	2	6
Chenango	67	3	5	7	22	0	2	1	1	26	0	0
Clinton	0	0	0	0	0	0	0	0	0	0	0	0
Columbia	51	4	4	1	19	0	0	0	0	21	0	2
Cortland	0	0	0	0	0	0	0	0	0	0	0	0
Delaware	73	1	2	7	18	0	2	4	2	33	0	4
Dutchess	269	2	38	10	105	0	0	0	0	113	0	1
Erie	1,019	39	236	76	80	0	1	0	2	575	4	6
Essex	14	0	1	2	4	0	0	0	0	7	0	0
Franklin	53	0	1	11	19	0	0	0	0	22	0	0
Fulton	96	0	10	0	31	0	0	0	0	54	0	1
Genesee	70	2	4	1	23	0	0	0	1	38	0	1
Greene	77	1	6	8	25	1	3	0	0	31	1	1
Hamilton	0	0	0	0	0	0	0	0	0	0	1	0
Herkimer	125	1	11	8	28	0	0	0	0	75	2	0
Jefferson	322	28	54	17	37	0	1	1	1	174	0	7
Lewis	7	0	0	0	2	0	0	0	1	4	0	0
Livingston	0	0	0	0	0	0	0	0	0	0	0	0
Madison	63	2	5	0	20	0	0	0	0	36	0	0
Monroe	332	0	8	113	45	0	0	1	0	162	1	2
Montgomery	64	3	0	3	32	1	0	0	0	24	0	1
Nassau	1,694	24	276	54	613	0	6	1	2	696	0	22
Niagara	105	1	9	6	35	0	1	0	0	53	0	0
Oneida	107	1	19	7	40	0	0	0	0	40	0	0
Onondaga	500	11	65	70	57	0	0	0	0	295	0	2
Ontario	117	0	12	5	19	0	1	0	0	77	0	3
Orange	75	0	2	15	15	0	1	0	0	42	0	0
Orleans	20	1	1	4	11	0	0	0	0	3	0	0
Oswego	38	0	1	2	15	0	0	0	0	20	0	0
Otsego	1	0	0	0	0	0	0	0	0	1	0	0
Putnam	94	1	0	16	43	0	0	0	0	32	0	2
Rensselaer	0	0	0	0	0	0	0	0	0	0	0	0
Rockland	47	0	15	0	9	0	0	0	0	23	0	0
St. Lawrence	37	1	0	3	2	0	0	0	0	30	1	0
Saratoga	106	0	5	3	30	0	0	1	0	67	0	0
Schenectady	161	0	15	7	48	2	0	0	1	84	0	4
Schoharie	29	1	0	0	10	0	0	0	0	18	0	0
Schuyler	34	0	1	6	10	0	0	0	0	16	0	1
Seneca	24	0	9	0	1	0	0	0	0	13	0	1
Steuben	95	5	9	17	21	0	0	0	0	41	1	1
Suffolk	1,590	12	495	56	503	0	0	1	1	502	3	11
Sullivan	75	0	11	12	25	0	0	0	0	27	0	0
Tioga	51	2	5	1	23	0	0	0	0	20	0	0
Tompkins	56	1	5	2	14	0	0	0	0	33	0	1
Ulster	100	7	11	5	51	0	0	0	0	26	0	0
Warren	17	0	4	3	4	0	1	1	0	4	0	0
Washington	31	0	2	1	13	0	0	1	0	14	0	0
Wayne	71	2	4	2	15	0	0	0	0	45	0	3
Westchester	1,532	9	340	85	368	2	26	0	0	693	2	7
Wyoming	0	0	0	0	0	0	0	0	0	0	0	0
Yates	0	0	0	0	0	0	0	0	0	0	0	0

Table 86
FAMILY OFFENSE PROCEEDINGS
Commenced in New York City Criminal Court
(Including Cases Disposed in Supreme Court)

January 1, 1980 through December 31, 1980

Docket Disposition	Total	Felony					Misdemeanor			Violation	Unknown
		A	B	C	D	E	A	B	Unclassified	Infraction	
Acquitted	1						1				
Dismissed	342		1	5	23	1	214	17		64	17
Dismissed — 730	3						2				1
Dismissed — because of guilty finding in companion case	2						1	1			
Dismissed — 170.55	9				1		5			3	
Total Not Guilty	357		1	5	24	1	223	18		67	18
Sentence imposed	145		1	3	13	4	92	6		20	6
Youthful offender	2				1	1					
Total Guilty	147		1	3	14	5	92	6		20	6
Held for Grand Jury	2			1	1						
Indicted	4		2		1		1				
Transferred	235		2	2	3		12	2	1	3	210
Waived to Grand Jury	2				1						1
Total Referred to Supreme Court	243		4	3	6		13	2	1	3	211
Total Disposed	747		6	11	44	6	328	26	1	90	235

Chapter 4

Special Programs

4.1 Mental Health Information Service

Section 29.09 of the Mental Hygiene Law establishes in each of the State's four judicial departments a Mental Health Information Service. The director in each department and his assistants and staff are appointed by the Presiding Justice of the appropriate Appellate Division. The statutory functions of the service include reviewing the admission and retention of mentally ill patients in mental health facilities, providing courts with all relevant information concerning the patient's case in judicial proceedings, and providing similar services for the mentally disabled and their families.

Table 87 is a summary of the principal activities of the Mental Health Information Service in 1980 as tabulated from reports furnished to the Office of Court Administration.

4.2 Central Index for Post-Conviction Applications

A Central Index for Post-Conviction Applications was established in the office of the Administrative Board of the Judicial Conference on July 1, 1970. The system was devised after extensive discussion with a committee of both State and Federal judges which was chaired jointly by then Chief Judge Stanley H. Fuld and then Chief Judge Edward J. Lumbard. The main purpose of the Central Index was to permit a judge, whether State or Federal, who receives post-conviction applications to look to one place to determine if the petitioner has made similar application to another court or has another application presently pending.

The system operates relatively simply. When a judge receives a post-conviction application, he completes a card form and mails it to the Office of Court Administration. This form indicates the petitioner's name, his New York State Identification Number (NYSID), the date the application was received, the type of application, the judge's name, the court, and the docket number. OCA then processes the information on its computer, and the computer generates a two-part form which is sent to the judge. The first part of the form indicates any previously reported application made by the petitioner since July 1, 1970. The second part of the form is completed by the judge when the application is disposed of, and it is sent to the Office of Court Administration for inclusion in the Central Index.

In 1980, 802 applications were received by the Central Index, 800 from State courts and 2 from Federal courts. All 468 dispositions received were from State courts.

An analysis by computer of the applications received indicates that 270 post-conviction applications during the year had been filed previously in another court. This would indicate that those who bring post-conviction applications do not limit themselves to one application or one court. Thus, the main purpose in establishing the Index—to make available to the courts the information that other similar applications have been made or are pending in other courts—is being served, albeit on a limited basis.

Table 88 sets forth the type of applications received by both the State and Federal courts which were reported to the Office of Court Administration in 1980.

4.3 Retainer and Closing Statements

Under 22 NYCRR Parts 603, 551 and 1022, every attorney in a contingent fee in the First, Second and Fourth Judicial Departments* must file a Statement of Retainer with the Office of Court Administration in cases involving personal injury, property damage, wrongful death, or change of grade. This statement must be filed within 30 days of the date the lawyer is retained (15 days in the case of "of counsel" lawyers). It sets forth the date of the agreement, the terms of compensation, the agreement as to work and fee division between the original lawyer and the "of counsel" lawyer, and data about the person referring the client to the lawyer.

In addition, every such lawyer must file a closing statement with the Office of Court Administration within 15 days of the date the monies became available to him. This statement sets forth such information as the monetary amount of the settlement or award (if any). If an action was commenced, it contains the date, court and county of commencement and the method of the recovery, the person paying the recovery, the distribution of the recovery to the client and the lawyer's fees and other disbursements.

The purpose of these statements is to provide information for use by the three Appellate Divisions to prevent the charging of unconscionable fees in contingent fee cases and to discourage the unlawful solicitation of cases.

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*At present, there is no filing rule for the Third Judicial Department.

Table 89 shows that 99,280 retainer statements were filed with the Office of Court Administration in the calendar year 1980. This was an increase of 5,995 retainers over the previous calendar year.

Table 90 gives the court in which actions were terminated and the monetary breakdown by settlement or judgment. For cases commenced in the Supreme Court, the largest single group of cases terminated involved recoveries between $10,000 and $15,000. The largest single group of cases terminated in the lower courts involved recoveries for $2,000 and $3,000. The great majority of claims settled resulted in at least some monetary recovery. Although there were some very large recoveries, they were proportionately few; there were 1,991 recoveries in the $50,000 to $100,000 category and 1,391 recoveries over $100,000.

4.4 Alternative Dispute Resolution Program

The compulsory arbitration statute was enacted by the Legislature in 1970, Judiciary Law Section 213 (8). The statute was subsequently extended three times by the Legislature, and in 1978 enacted permanently (CPLR 3405).

The Alternative Dispute Resolution Program was established on a pilot basis in Monroe County (September 1, 1970), Bronx County (May 17, 1971), Broome County (March 1, 1972), and Schenectady County (June 18, 1973).

Rule 3405 authorized the Chief Judge of the Court of Appeals to promulgate rules for the arbitration of claims for the recovery of a sum of money not exceeding $6,000, exclusive of interest, pending in any court or courts. The Chief Judge has adopted rules governing arbitration (22 NYCRR 28).

During 1980, as part of the Plan of the Chief Judge to Reduce Court Delay in New York State, the Alternative Dispute Resolution Program was extended to Albany, Rensselaer and Ulster Counties in the Third District; all other counties of the Seventh District; Niagara County in the Eighth District; Dutchess, Orange, Rockland and Westchester Counties in the Ninth District; Nassau and Suffolk Counties in the Tenth District, and New York, Kings and Queens Counties in New York City. These counties began their programs on various dates during 1980 as noted in Table 91.

Table 91 is a recapitulation of the statewide Alternative Dispute Resolution Program beginning with the established programs and continuing with the programs added by the plan. The expansion of the program into seven other counties of the Seventh District was the final addition in 1980.

Table 92 is an analysis of the outflow from the program by county with the established counties first and those counties added by the plan following.

One measure for evaluating the success of the program is the acceptance of the dispositions by litigants. Table 91 shows that approximately 94 percent of the dispositions are accepted, while 6.1 percent of the cases have a *de novo* trial demand filed.

The tables show that 10,409 dispositions were achieved through this program. Because the newly added programs began during 1980, the number of dispositions will increase substantially during 1981.

4.5 Statements of Appointments and Statements of Fees or Commissions

Section 35-a of the Judiciary Law, as originally enacted by the Legislature in 1967, required the filing of a Statement of Appointment by each person appointed by the courts to perform services in actions and proceedings for a fee or an allowance. The statute called for these statements to be filed with the Judicial Conference within 30 days of an appointment. The required information included the name and the address of the appointee, the nature of the appointment, the title of litigation, and the name of the court and the judge or justice making the appointment.

In addition, within 30 days of receiving a fee, the appointee was required to execute a Statement of Services Rendered with other pertinent data related to the fee received. Under the statute, all statements filed were to be kept as matters of public record. The law also required that an annual summary of the information in the statement be furnished to the four Appellate Divisions of the Supreme Court for use in supervising court appointments in their Judicial Departments. A total of 121,687 statements of appointment have been filed since July 1, 1967.

An extensive study of this system of two reports for each appointment revealed a number of inefficiencies. Not the least of these was the failure of many appointees to file a Statement of Services Rendered after payment of the fee. To deal with this problem, the Office of Court Administration sponsored legislation amending section 35-a which was enacted as Chapter 834, Laws of 1975, and which went into effect starting with appointments made after September 1, 1975.

Under the amended law, judges who approve fees are responsible for filing a single comprehensive statement, entitled Statement of Fees or Commissions, on appointments for which the fee is more than $200. The judges are required to send the statements to the Office of Court Administration each week for data processing and filing. Fees of $200 or less are not required to be reported because they are believed to have little significance in the statistical study of appointments made in the court system.

In 1980 a total of 4,428 Statements of Fees or Commissions were filed with the Office of Court

Administration. The new system accomplished its intended purpose of obtaining timely reports on court appointments without loss of required data provided by the older system. While the older system was not abolished by Chapter 834, only six Statements were filed under that system in 1980.

4.6 Attorney Grievance Committees

Section 90 of the Judiciary Law places with the four Appellate Divisions, the authority to "censure, suspend . . . or remove from office" any lawyer who is found guilty of a crime, misconduct, or malpractice, or any conduct prejudicial to the administration of justice. To accomplish this purpose, the Appellate Divisions have appointed attorney discipline committees in their respective departments.

Since April 1, 1980 the staff of the Committees are employees of the Appellate Division. Prior to this, the staff in the First Department was funded through a contractual agreement with the Association of the Bar of the City of New York.

In 1980, the Grievance Committees received 6,082 new matters and disposed of 6,535 matters, as shown in Table 93. The Committees also were involved in 205 litigated matters.

4.7 Attorney Registration

Effective April 1, 1979, the four Appellate Divisions, under 22 NYCRR, adopted a new rule requiring every attorney admitted to practice in New York State or who maintains an office in the State to file a statement of registration with the Office of Court Administration no later than June 1, 1979, and every two calendar years thereafter within 30 days after his/her birthday. Attorneys who are admitted to practice after April 1, 1979, must file within 30 days of the date of their admission and again every two calendar years within 30 days after their birthday.

The rule also requires that an attorney must notify the Office of Court Administration within 30 days of closing an office, opening a new office, or changing a place of residence.

As of February 17, 1981, there are currently 67,842 attorneys registered with the Office of Court Administration. Table 94 shows the breakdown by county and department. Table 95 shows the breakdown of the date of birth by the date of admission to the bar.

4.8 Attorney Affidavits

According to the Rules of the Appellate Division (22 NYCRR Parts 603, 551 and 1022), all attorneys must file an affidavit as a condition to proceed with an adoption. The objective of this filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services.

Once the attorney has been contacted to represent a client in an adoption proceeding, the attorney prepares a petition requesting an adoption. When the petition is filed, a docket number is issued by the court. The attorney's affidavit is completed in duplicate by the attorney who files one copy with the court and the other copy with the Office of Court Administration. During 1980, 6,771 adoption affidavits were filed with the Office of Court Administration.

Table 87

Mental Health Information Service Activity by Judicial Department

January 1, 1980 through December 31, 1980

Judicial Department	Non-Judicial Proceedings		Applications for Release or Retention			Other Activity		
	Applications Reviewed	Contacts with Patients & Other	Patients Released	Patients Retained	Hearings Demanded	Judicial Cases	Reports to Courts	Hearings Attended
First	18,296	22,593	347	265	587	864	1,226	1,626
Second	59,313	93,624	452	5,184	2,455	8,360	7,013	6,864
Third	7,251	8,616	100	949	158	1,368	1,210	296
Fourth	19,805	14,069	534	2,576	1,199	3,777	2,882	2,373
Statewide Total	104,665	138,902	1,433	8,974	4,399	14,369	12,331	11,159

Table 88

Central Index of Post-Conviction Applications

January 1, 1980 through December 31, 1980

Type of Application	N.Y. Courts	Federal Courts	Total	Percent
Habeas Corpus	164	2	166	20.7
Coram Nobis	1	0	1	.1
Article 78	629	0	629	78.5
Civil Rights	1	0	1	.1
Motion for Resentence	4	0	4	.5
Certificate of Relief from Disability	1	0	1	.1
Total	800	2	802	100.0

Table 89

Retainer Statement Filings by Month

January 1, 1980 through December 30, 1980

Month	Number of Statements of Retainer Filed
January	8,261
February	7,313
March	6,838
April	8,214
May	8,385
June	8,981
July	8,304
August	8,743
September	8,271
October	10,015
November	6,036
December	9,919
Total	99,280

Table 90

Court and Monetary Breakdown of Closing Statements

January 1, 1980 through December 30, 1980

Amount of Recovery	Supreme Court		U.S. District Court		Court of Claims +		County Court		Civil Court		City Court		District Court		Justice Court		All Courts		No Action*
	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled
$1-499	173	9	8	1	1	..	6	..	358	4	20	1	41	2	1	..	608	17	273
500-999	543	9	36	2	..	..	23	..	964	7	50	1	105	2	7	1	1.728	22	759
1.000-1.999	1,760	27	64	..	5	2	44	..	2,248	21	74	3	135	3	7	..	4,337	56	1.603
2.000-2.999	2.614	28	44	1	11	..	36	3	1,741	18	58	2	79	..	..	..	4.583	52	1.769
3.000-3.999	3,348	41	54	..	9	2	28	..	1,067	18	39	2	46	..	..	..	4.591	63	1.661
4.000-4.999	2.854	17	47	1	8	..	7	1	547	7	12	..	10	..	..	..	3,485	26	1,098
5.000-5.999	2,836	30	52	3	5	2	7	..	283	8	4	1	11	1	..	..	3.198	45	954
6.000-6.999	2.462	14	42	1	7	..	5	..	154	2	6	..	2	..	..	..	2,678	17	710
7,000-7.999	3.073	29	47	..	8	..	8	..	138	4	5	..	4	..	..	..	3.283	33	692
8,000-8.999	1,751	14	22	1	4	..	7	1	52	..	..	..	..	..	..	..	1.836	16	465
9,000-9.999	2.126	19	30	..	1	1	3	..	45	2	..	..	..	..	..	..	2.205	22	604
10,000-14.999	5.624	92	122	3	2	2	3	..	75	3	..	..	..	..	..	..	5.826	100	1.467
15,000-19.999	3,061	42	76	3	3	1	...	..	16	2	..	..	..	..	..	..	3.156	48	337
20.000-24.999	1.901	33	50	1	2	2	...	..	7	..	..	..	..	..	..	..	1.960	36	223
25,000-29.999	1.431	31	51	2	1	1	...	..	3	..	..	..	..	..	..	..	1.486	34	147
30,000-34.999	771	26	24	1	1	..	...	..	2	1	..	..	..	..	..	..	798	28	55
35,000-49.999	1.568	55	73	3	5	2	...	..	4	..	..	..	..	..	..	..	1.650	60	130
50,000-99.999	1,792	90	103	1	..	4	...	..	1	..	..	..	..	..	..	..	1.896	95	105
100.000-UP	1.086	111	177	6	2	5	...	..	4	..	..	..	..	..	..	..	1.269	122	65
Total With Recovery	40,774	717	1.122	30	75	24	177	5	7.709	97	268	10	433	8	15	1	50.573	892	13.117
No Recovery	920		47		19		11		428		21		17		3		1.466		3.722

NOTE: Whenever individual closing statements were filed by attorneys acting jointly in a case, each statement received was included in these tabulations. Thus, the number of statements somewhat exceeds the total number of cases closed.

+ Includes condemnation as well as tort matters.

*Item 3 of the closing statement requires that the court and date be indicated if an action was commenced. This category includes those statements in which this item is left blank.

Table 91

RECAPITULATION OF ALTERNATIVE DISPUTE RESOLUTION PROGRAM

Thirteen Terms December 31, 1979 through December 28, 1980

I. Programs Previously Established

County	Inflow	Outflow	Pending	Demand for Trial De Novo Number	Percent
Bronx	1,132	1,039	295	80	7.7
Broome	147	161	55	9	5.6
Monroe	867	921	234	83	9.0
Schenectady	136	104	246	7	6.7

II. Programs Added by the Plan

District/ County	Program Started					
Ninth						
Westchester	2/04/80	1,380	778	602	38	4.9
Rockland	2/04/80	341	172	169	4	2.3
Dutchess	2/04/80	289	167	122	13	7.8
Orange	2/04/80	237	119	118	2	1.7
Tenth						
Nassau	7/14/80	2,732	620	2,112	30	4.8
Suffolk	4/21/80	2,017	1,199	818	51	4.3
Third						
Albany	2/11/80	413	264	149	6	2.3
Rensselaer	3/03/80	184	53	131	1	1.9
Ulster	2/18/80	150	101	49	10	9.9
Fifth						
Oneida	1/28/80	346	204	142	7	3.4
Onondaga	1/28/80	850	581	269	35	6.0
Seventh						
Cayuga	9/08/80	13	4	9	—	—
Livingston	9/08/80	8	5	3	—	—
Ontario	9/08/80	15	3	12	—	—
Seneca	9/08/80	2	—	2	—	—
Steuben	9/08/80	36	15	21	—	—
Wayne	9/08/80	—	—	—	—	—
Yates	9/08/80	2	1	1	—	—
Eighth						
Niagara	2/25/80	237	147	90	11	7.5
New York City						
New York	5/26/80	3,716	2,124	1,592	128	6.0
Queens	5/12/80	1,568	739	829	50	6.8
Kings	5/12/80	1,703	888	815	67	7.5
Total New York State		18,521	10,409	8,885	632	6.1

Table 92

ANALYSIS OF THE OUTFLOW FROM THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM

Thirteen Terms December 31, 1979 through December 23, 1980

I. Programs Previously Established

County	Hearings Completed			Before Hearing Settlements and Remands	Total Outflow
	by Single Arbitrator	by Panel	Total		
Bronx	472	389	861	178	1,039
Broome	63	56	119	42	161
Monroe	264	381	645	276	921
Schenectady	16	72	88	16	104

II. Programs Added by the Plan

District/ County	Program Started	by Single Arbitrator	by Panel	Total	Before Hearing Settlements and Remands	Total Outflow
Ninth						
Westchester	2/04/80	205	216	421	357	778
Rockland	2/04/80	52	38	90	82	172
Dutchess	2/04/80	65	39	104	63	167
Orange	2/04/80	46	32	78	41	119
Tenth						
Nassau	7/14/80	264	201	465	155	620
Suffolk	4/21/80	419	362	781	418	1,199
Third						
Albany	2/11/80	98	63	161	103	264
Rensselaer	3/03/80	31	13	44	9	53
Ulster	2/18/80	37	33	70	31	101
Fifth						
Oneida	1/28/80	79	40	119	85	204
Onondaga	1/28/80	297	140	437	144	581
Seventh						
Cayuga	9/08/80	2	–	2	2	4
Livingston	9/08/80	4	–	4	1	5
Ontario	9/08/80	3	–	3	–	3
Seneca	9/08/80	–	–	–	–	–
Steuben	9/08/80	5	7	12	3	15
Wayne	9/08/80	–	–	–	–	–
Yates	9/08/80	1	–	1	–	1
Eighth						
Niagara	2/25/80	63	36	99	48	147
New York City						
New York	5/26/80	849	528	1,377	747	2,124
Queens	5/12/80	358	204	562	177	739
Kings	5/12/80	504	280	784	104	888
Total New York State		4,197	3,130	7,327	3,082	10,409

Table 93

ATTORNEY GRIEVANCE COMMITTEES ACTIVITY

January 1, 1980 through December 31, 1980

Items	Statewide	1st Dept.	3rd Dept.	4th Dept.	2nd & 11th Dist.	9th Dist.	10th Dist.
Matters Processed by Committee							
New Matters Received	6,082	2,471	681	1,082	578	440	830
Closed Matters Reactivated	220	0	21	172	14	13	0
Total	6,302	2,471	702	1,254	592	453	830
Disposition of Matters by Committee							
Dismissed/Rejected	5,028	2,167	496	1,167	272	294	632
Referred to Other Committee/ Agency	754	274	64	18	217	89	92
Caution	192	54	49	5	17	27	40
Admonition	192	91	16	17	28	27	13
Referred to Appellate Division	369	124	53	37	84	27	44
Court Cases							
Cases Initiated	205	51	31	27	46	31	19
Court Cases Disposed							
Disbarred	77	12	0	2	57	3	3
Resigned	7	2	1	3	0	1	0
Suspended	34	4	9	8	12	0	1
Censured	8	0	2	0	2	0	3
Dismissed	16	2	8	6	0	0	0
Reinstatement Granted	21	8	5	3	3	1	1
Reinstatement Denied	16	10	0	1	3	1	1
Other	56	12	8	3	23	3	7

Table 94

ATTORNEY REGISTRATION BY LOCATION

LOCATION	TOTAL	LOCATION	TOTAL
Albany	1,706	Otsego	58
Allegany	29	Putnam	90
Bronx	857	Queens	1,883
Broome	371	Rensselaer	188
Cattaraugus	73	Richmond	326
Cayuga	76	Rockland	466
Chautauqua	131	St. Lawrence	73
Chemung	127	Saratoga	141
Chenango	45	Schenectady	289
Clinton	67	Schoharie	26
Columbia	65	Schuyler	16
Cortland	41	Seneca	31
Delaware	49	Steuben	103
Dutchess	368	Suffolk	1,754
Erie	1,814	Sullivan	133
Essex	54	Tioga	37
Franklin	50	Tompkins	137
Fulton	57	Ulster	203
Genesee	46	Warren	114
Greene	46	Washington	38
Hamilton	12	Wayne	72
Herkimer	53	Westchester	2,519
Jefferson	86	Wyoming	26
Kings	3,091	Yates	19
Lewis	13	Outside New York State	5,693
Livingston	41	Missing County	2,470
Madison	59		
Monroe	1,577	Total	67,842
Montgomery	57		
Nassau	4,342		
New York	33,334	First Department	34,191
Niagara	245	Second Department	15,195
Oneida	337	Third Department	4,259
Onondaga	1,098	Fourth Department	6,034
Ontario	71	Outside New York State	5,693
Orange	356	Missing County	2,470
Orleans	25		
Oswego	68	Total	67,842

Table 95

ATTORNEY REGISTRATION
by Date of Birth

Date of Birth	*Total*
1957 and After	11
1951 - 56	9,116
1946 - 50	12,995
1941 - 45	9,652
1936 - 40	6,188
1931 - 35	6,061
1926 - 30	6,179
1921 - 25	4,509
1916 - 20	3,635
Before 1915	9,496
Total	67,842

Chapter 5

Education and Training Programs

Since 1962, over 22,300 judges and justices of New York State have attended seminars and training programs conducted by the Office of Court Administration (OCA) through its Education and Training Office. In 1980, 2009 judges, including 1006 town and village justices, attended 33 OCA-sponsored judicial programs. In addition, 24 judges attended national programs outside the State. In the area of nonjudicial training, more than 1841 persons attended programs sponsored or financed by OCA.

The Education and Training Office also administers the tuition-reimbursement program for State-paid court personnel and provides assistance or advice and counsel to judicial and nonjudicial groups in the State.

This chapter consists of six sections: (1) judicial programs for State-paid judges; (2) town and village justice programs; (3) nonjudicial programs; (4) other programs; (5) other activities; and (6) summaries of discussions at the Crotonville Conference.

5.1 Judicial Programs For State-Paid Judges

In 1980, the number of programs for State-paid judges and the total cumulative attendance increased by 50 percent over 1979, and the number of seminar days increased by nearly 70 percent.

Criminal Court Judges Seminar

March 21-23, 1980

A program for New York City Criminal Court Judges was presented by the Education and Training Office on March 21 through 23, 1980 at Liberty, New York. In addition to lectures on identification issues, discovery, bail, and plea and sentencing considerations, a question and answer period on selected evidentiary questions was held. Small group discussions followed each presentation. Approximately 81 judges attended.

Seminar for City Court Judges

March 28-30, 1980

The Education and Training Office's Annual Program for City Court Judges was attended by 50 judges on March 28 to 30, 1980 at Swan Lake, New York.

Lectures were presented on discovery, felony hearings, negotiated pleas, recent developments in the law of driving while intoxicated, summary proceedings, judicial conduct, and small claims. In addition, small groups of judges compared the sentencing factors they take into consideration during discussions of presentence reports that were provided before the program.

Judicial Conference on Child Abuse and Neglect

April 17-19, 1980

The Education and Training Office co-sponsored The Judicial Conference on Child Abuse and Neglect for Family Court Judges along with the Association of Judges of the Family Court of the State of New York and Regional II Child Abuse and Neglect Resource Center. The 43 Family Court Judges that attended were lectured on the development of the role of the court in child protection cases, the IJA/ABA proposed Juvenile Justice Standards relating to Abuse and Neglect, child abuse, child neglect, the sexual abuse of children, procedural problems in child protection cases, evidentiary problems in child protection cases, the application of child development concepts to child maltreatment procedure, dispositional alternatives, and the role of child protection agencies in Family Court cases.

Seminar for County Court Judges

May 14-16, 1980

Approximately 60 Judges of the County Court attended a program sponsored by the Education and Training Office at Grand Island, New York on May 14 to 16, 1980. Topics covered in lectures and panel discussions included recent developments in criminal law, criminal jury instructions, civil procedure, presumptive sentencing, discovery, and a legislative review.

Seminar for Surrogates

June 2-5, 1980

The 14th Annual Seminar for Surrogates was held in Saratoga Springs on June 2 to 5, 1980 and was attended by 36 Surrogates. In addition to the review of more than fifty recent decisions, speakers and panelists covered topics including the hearsay rule, judicial conduct, proposed and pending legislation, and the New York State Retirement System.

District Court Judges Seminar

June 13-15, 1980

Thirty-four Judges of the District Court attended the first program for District Court Judges on June 13 to 15, at Catskill, New York.

In addition to lectures on new legislation, discovery, recent developments in the law of driving while intoxicated, and recent developments in no-fault and comparative negligence, small groups of judges compared the sentencing factors they take into consideration during discussions of presentence reports that were provided before the program.

Conference of New York State Trial Judges

June 23-26, 1980

Approximately 135 judges and justices attended this annual seminar held in Crotonville, New York from June 23 to 26, 1980. The program was divided into five seminar periods. The first four periods consisted of the judges, divided into four groups, attending, on a rotating basis, discussions on recent developments in civil procedure, evidence, criminal law and procedure, and the role of the trial judge. The fifth period consisted of a lecture on sentencing and parole and a summation of the panel discussions.

Summer Program for Trial Judges I and II

August 3-7, 1980
August 10-14, 1980

Approximately 320 judges attended two summer programs for Trial Judges held at Liberty, New York on August 3 to 7 and 10 to 14, 1980. These programs were modeled after the Crotonville Trial Judges Seminars. Panel discussions on evidence, civil procedure, criminal procedure and substantive civil law were held at each. In addition, the judges attended lectures on voir dire in criminal cases, suppression issues under the fourth, fifth and sixth amendments, equitable distribution, and sentencing and parole.

Autumn Program for Trial Judges

October 26-30, 1980

This program, like the two summer programs, was modeled after the popular Crotonville conference. The 56 judges attending participated in panel discussions on evidence, criminal law and procedure, civil procedure and substantive civil law. In addition, lectures were presented on equitable distribution, suppression issues under the fourth, fifth and sixth amendments, and sentencing and parole. This program was held at Lake Luzerne, New York.

Family Court Workshop

October 5-8, 1980

The twelfth annual workshop for Family Court Judges was held in Ellenville, New York on October 5 to 8, 1980. Approximately 100 judges attended. Panel discussions were held on new legislation and case law, legal and psychological factors in child custody decisions, the rights of unmarried fathers in adoptive proceedings, the Governor's Task Force on Domestic Violence, and equitable distribution.

Civil Court Judges Programs I and II

November 9-12, 1980
November 16-19, 1980

Two programs for New York City Civil Court Judges were held at Kiamesha Lake, New York, on November 9 to 12, 1980 and November 16 to 19, 1980. The judges attended lectures on topics including recent developments in landlord and tenant law, calendar and motion problems in landlord and tenant court, procedures and practices in special parts, recent developments in civil procedure, problems encountered by trial judges, marshalling the evidence and preparing the charge, civil pattern jury instructions, and appeals from the Civil Court. Approximately 70 judges attended the two programs.

Criminal Court Judges Seminar

November 21-23, 1980

The annual Criminal Court Judges Seminar was held on November 21 to 23, 1980 in Kiamesha Lake, New York. The 75 judges who attended discussed or heard lectures on community services sentencing, alcoholism diversionary alternatives, forensic psychiatric services, aspects of sentencing and suppression issues under the fourth, fifth and sixth amendments.

Orientation Seminar for New Judges

December 1-5, 1980

The annual Orientation Program for Newly-Elected and Newly-Appointed Judges was held on December 1 to 5, 1980 in New York City. This week-long program consisted of lectures on evidence, the trial judge's role, the New York State Employees Retirement System, criminal procedure, the Bench Book for Trial Judges, civil law and procedure, the administration of jurors, the role of the court reporter, inter-court relations and administrative structure, substantive criminal law, pattern jury instructions, judicial conduct, the conduct of a civil trial and courts, and the community and the news media. Approximately 43 judges attended.

Court, District, and Departmental Programs

In addition to the statewide programs described above, a number of courts, districts, and departments have conducted individual or on-going educational sessions for their judges. One such example is the Fourth Department's Family Court training sessions. Two full day sessions were conducted in 1980 on Saturdays dealing with such issues as ethics, practice and procedure, public relations, substantive law, and the interrelationship of the court with ancillary agencies. These sessions also provided practical assistance for the Family Court judge who might be temporarily reassigned. The programs were led by professional persons within and without the judiciary.

The Office of Court Administration thanks the following people who addressed, lectured, or otherwise participated in the educational programs for State-paid judges:

Honorable Morris Aarons
Honorable James R. Anderson
Professor Joseph T. Arenson
Honorable Raymond C. Baratta
Honorable Douglas Barclay
Associate Dean Robert A. Barker
Dean Richard J. Bartlett
Honorable Joseph W. Bellacosa
Honorable John D. Bennett
Douglas J. Besharov, Esq.
Honorable Harold Birns
Hillel Bodek, M.S.W., C.S.W.
Honorable David O. Boehm
Honorable Evans V. Brewster
Samuel S. Buchholtz, Esq.
Honorable Robert Cacace
James Cameron, C.S.W.
Honorable Joan B. Carey
Honorable John T. Casey
Honorable Nicholas Coffinas
Honorable Lawrence H. Cooke
Honorable Donald J. Corbett, Jr.
Mr. Albert Court
Honorable Richard G. Denzer
William C. Donnino, Esq.
Honorable Vincent E. Doyle
Honorable Harry Edelstein
John J. Elliott, Esq.
Honorable William M. Erlbaum
Honorable Herbert B. Evans
Professor Richard T. Farrell
Marjory D. Fields, Esq.
Dean Robert B. Fleming
Vincent J. Fontana, M.D.
Honorable Alexander D. Forger
Henry H. Foster, Jr., Esq.
Richard D. Garnett, Ph.D.
Honorable Bertram R. Gelfand
Professor Emeritus Milton Gershenson
David Gilman, Esq.
Dean I. Leo Glasser
Honorable Archie A. Gorfinkel
Honorable Charles F. Graney
Honorable Irving A. Green
Professor Martin Guggenheim
Honorable Edward R. Hammock
Honorable Maurice Harbater
Honorable Gerald S. Held
Honorable Nathaniel T. Helman
Honorable Nat H. Hentel
Honorable Edward M. Horey
Honorable Henry J. Kalinowski
Honorable Bently Kassal
Honorable Edwin Kassoff
Professor Katheryn Katz
Sanford N. Katz, Esq.
David L. Kerns, M.D.
Professor Joseph H. Koffler
Honorable Theodore R. Kupferman
Ms. Rosalie Labate
Honorable Thomas V. LaFauci
Hortense R. Landau, Esq.
Honorable Louis D. Laurino
Honorable Leon D. Lazer
Honorable Howard A. Levine
Honorable David Levy
Honorable Leo Levy
Honorable Charles T. Maloy
Honorable Arthur Markewich
Honorable Joseph S. Mattina
Honorable William P. McCooe
Paul McCrann, C.S.W.
Honorable Eli H. Mellan
Marilyn Michaels, Esq.
Honorable John A. Milano
Honorable Howard Miller
Honorable E. Leo Milonas
Honorable Allen Murray Myers
Honorable Lawrence Newmark
Honorable Benjamin Nolan
Professor Peter J. O'Connor
Honorable James F. O'Donoghue
Meg O'Regan-Cronin, Esq.
Honorable John L. Ostrander
Anthony R. Palermo, Esq.
Honorable Richard Palmer
Julia Perles, Esq.
Ms. Lauren Pete
Jeanine Ferris Pirro, Esq.
Norman A. Polansky, Ph.D.
Professor Paul J. Powers
Professor Peter Preiser
Honorable Eve M. Preminger
Dean Emeritus Jerome Prince
Honorable William J. Regan
Robert Rhubin, Esq.
Honorable H. Buswell Roberts
Honorable Ernst H. Rosenberger
Honorable Albert M. Rosenblatt
Honorable David Ross
Honorable Harold J. Rothwax
Honorable Eugene W. Salisbury
Dr. Lee Salk
Honorable Jawn A. Sandifer
Honorable Leonard H. Sandler
Mr. Richard Santiago
Professor Thomas F. Shea
Professor David D. Siegel
Honorable Robert J. Sise
Gary N. Skoloff, Esq.
Honorable Lynn H. Smith
Mr. Michael Smith
Honorable Thomas M. Stark
Honorable Martin B. Stecher
Honorable Donald J. Sullivan
Honorable Margaret Taylor
Honorable Alexander Vitale
Honorable Richard W. Wallach
John Warner, Esq.

Richard H. Wels, Esq.
Honorable Saul Weprin
Professor Irving Younger

5.2 Town and Village Justice Training Programs

There are approximately 2,500 town and village justice positions in New York State. Because of vacancies and because some judges hold more than one position, approximately 2,200 individuals hold the office of town or village justice. Roughly eighty percent of these are not admitted to practice law in the State. New justices who are not attorneys are required to successfully complete a six-day Basic Certification Course covering the fundamentals of law and their responsibilities as judges. The Basic Course was presented once in Canton and twice each in Albany, Syracuse, and Buffalo in 1980. A total of 181 new judges attended. After completion of the Basic Course, and upon each succeeding new term of office, a non-attorney justice must complete a two-day Advanced Certification Course which covers selected legal topics in greater depth. The nine Advanced Courses presented in 1980 were held in New York City, Utica, Olean, Stone Ridge, Canton, Rochester, Ellenville, Plattsburgh and Dryden. A total of 1006 judges attended. In addition to the non-attorney certification programs this year, the Education and Training Office also presented a seminar for thirty-three attorney town and village justices in the Ninth and Tenth Judicial Districts, on October 18, 1980 in White Plains.

The Office of Court Administration is particularly grateful to the Honorable Eugene W. Salisbury, the Honorable Duncan S. MacAffer, and John J. Elliott, Esq., who served as the senior faculty for the program, coordinated the Basic Certification Courses, and provided invaluable consultation for the program planning and delivery.

In addition, the Office of Court Administration thanks the following people for their participation in the Justice Training Program:

Michael J. Brown, Esq.
Honorable William J. Bulger
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Paul J. Cambria, Esq.
Mr. Thomas J. Castner
Stephen R. Coffey, Esq.
Malcolm Coutant, Esq.
Professor Maurice Frey
Mr. William Green
Honorable Herman Harding
Frank S. Kedzielawa, Esq.
Salvatore Martoche, Esq.
David F. Mix, Esq.
Frank Moore, Esq.
Honorable Kevin Moss
Mr. David S. Rockefeller
Larry J. Rosen, Esq.
Edward Rowley, Esq.
Neal Schoen, Esq.
Honorable Richard Wittenburg

5.3 Nonjudicial Programs

Programs presented or sponsored by the Education and Training Office reached 1,841 employees at many levels of the court system in 1980, marking a substantial increase in the nature, type and frequency of programs as compared to previous years. Particularly notable in 1980 was the large number of court personnel who volunteered to serve as instructors for the first time in their fields of expertise and who performed exceptionally well.

The programs for nonjudicial personnel in 1980 are presented below in chronological order.

Team Building for Top Management

January 18-20, 1980

Twenty-two top managers of the Unified Court System attended a team building weekend at Arden House in Harriman, New York. The weekend began with an analysis of the results of a test instrument designed to inform the participants about the areas of strength and weakness each manifested when managing under both normal and high stress conditions. Another session was dedicated to obtaining insight into management's behavior as a team and the behavior of subordinates as it affects management. The weekend ended with an analysis of what the management team could do to improve its performance as a team, focusing particularly on effective communications among them.

Train the Trainers

February 8, 22, 25 & 29, 1980

A group of ten employees from the courts in New York City were trained in how to conduct all-day workshops for supervisors in the Unified Court System. A large portion of the program was devoted to techniques of workshop leadership, and the value of that portion was demonstrated when several of the participants subsequently ran seminars on other subjects for court employees.

Examination Review Course

February 1, 21, 26, 28 & March 1, 4 & 6, 1980

This twenty-seven hour course was created to prepare people for a senior court clerk's examination and was held during weekday evenings and weekends. Attendance at the sessions ranged from 300 to 600 people. Instructors were recruited from the courts and the Office of Court Administration, and they covered the following topics: How to Take a Written Examination; Court Structure; Study Techniques, Fundamental Principles of Supervision; The Family Court Act; The Surrogates' Court Practice Act; The Criminal Procedure Law; Civil Practice Law and Rules; and a plenary review.

Court Reporters Spring Seminar
April 19, 1980

One hundred and ninety-two court reporters assembled at the New York Hilton for a program created and conducted by the reporters' association and partially funded by the Office of Court Administration. In addition to presentations on a variety of topics relevant to court reporting, a mock criminal trial was used as a vehicle for identifying and explaining the skills required to "take a criminal trial."

Management Skills Program: Time Management
April 29, 1980

Eighteen members of the Personnel Office of the Office of Court Administration attended a daylong time management course conducted by the Education and Training Office. The program included an analysis of weekly time logs kept by participants, several practice exercises designed to aid participants in examining the value and use of their work time, and the formulation of action plans to improve their effective use of time.

Family Court Clerks Annual Seminar
June 3-6, 1980

The 28th Annual Seminar of the New York State Association of Clerks of Family Courts attracted a record 87 participants. The program included workshops and presentations on budget justification, personal stress management, recodification of the Family Court Act, court administration, the State Division for Youth, juvenile offenders, the Uniform Custody Act, transfer of proceedings, adoptions, putative fathers' rights, family offenses, and neglect and child abuse.

City and District Court Clerks Annual Seminar
June 8-11, 1980

Fifty-five City and District court clerks attended a series of task force workshops to compare, analyze, and unify procedures in the civil, criminal, small claims and traffic areas. Workshops were also conducted on the organization and management of small and medium-sized City courts and on the organization and management of large City & District courts, and presentations were offered on personal stress management, statistical reporting procedures, and administrative issues. The seminar, which was held at Lake Luzerne, New York, closed with a summary of the progress of the four task force workshops.

Surrogates' Law Association Annual Seminar
June 11-13, 1980

Thirty-eight members of the Surrogates' Law Association, who are attorneys working in the larger Surrogates' Courts, met at Lake Luzerne, New York. The seminar program consisted of a mixture of presentations and open discussions on a wide variety of legal, procedural, and practical issues relating to the Surrogates' Court. On the final day of the seminar, each of the 11 articles of the proposed code of evidence for New York were discussed and voted upon by the group, creating a position paper on the code.

Assertiveness Training: Tenth Judicial District
June 16-20, 1980

Three hundred ninety-eight employees attended one of ten three-hour sessions offered in Riverhead and Hauppauge which were designed to improve their skills in dealing with co-workers and the public.

Supreme & County Court Clerks Annual Seminar
July 21-24, 1980

The 22nd Annual Seminar of the Supreme and County Court Clerks was attended by 86 participants at Kiamesha Lake. A broad variety of topics covered managerial, legal and administrative areas, including the progress of the Supreme and County Court Clerks' Procedures Manual; criminal statistical reporting; the Plan to Alleviate Court Congestion; a personal stress management workshop; an employee information update; freedom of information; civil statistical reporting; classification appeals; recent legislation; and Standards and Goals.

Chief Clerks of Surrogates' Courts Seminar
September 7-10, 1980

The chief clerks of Surrogates' Courts met at Lake Luzerne, New York on September 7 to 10, 1980. Presentations were held on recent legislation, standardization of court fees, personnel matters, personal stress management, time management, and the Surrogates' Court Clerks' Manual project. During portions of the seminar, the clerks broke into small groups to work on various parts of the manual. Forty-two chief clerks attended the conference.

Commissioners of Jurors Annual Seminar
September 21-24, 1980

The efficient utilization of jurors was the major topical theme at the annual conference of Commissioners of Jurors held in Liberty, New York on September 21 to 24, 1980. Thirty-eight commissioners attended presentations and workshops dealing with jury management systems, juror utilization guidelines, statistical information systems, and automated juror records systems. In addition, discussions of administrative policy matters and a workshop on personal stress management were held.

City & District Court Clerks Fall Meeting
October 17-18, 1980

A presentation on microfilming in the courts and workshops on personnel matters and the clerks' procedural manual highlighted the autumn meeting in Syracuse which was attended by 24 City and District Court clerks.

Personal Development Workshops: Tenth District
December 22, 23, 26, 29 & 30, 1980

Two hundred forty nonjudicial employees attended one or more of a series of personal development workshops conducted in Riverhead, Hauppauge and Mineola during the holiday season. The workshop titles were: Time and Crisis Management; How to Take a Written Examination; Fundamental Principles of Supervision; and Assertiveness Training.

5.4 Other Programs

The Education and Training Office sponsors and coordinates selective attendance of judicial and nonjudicial personnel at nationally recognized education programs.

5.4.1 Judicial Programs

National Judicial College

Thirteen judges attended programs varying in length from one to four weeks at the National Judicial College facilities at the University of Nevada in Reno. Two judges attended the College's core four-week program; the other eleven attended shorter specialized courses dealing with new trends in the law, evidence, criminal law, or sentencing.

American Academy for Judicial Education

Two judges attended a one-week seminar on Fact-Finding Decision Making, Communication, Time Management, Stress and Judicial Performance offered by the American Academy at the University of Virginia Law School.

National Council of Juvenile Court Judges

Three Family Court judges attended the Annual Conference of the National Council of Juvenile Court Judges. Areas of discussion included child abuse and neglect, delinquency, violent and dangerous offenders, and learning disabilities.

American Bar Association Conference for State Trial Judges and Conference for Special Court Judges

Six judges attended these six-day conferences. Topics included recent impact decisions, search and seizure, alcohol and drugs, state-federal relations, communications, state judicial planning, administrative law, anatomy of a decision, and the news media and the law.

Institute for Trial Judges

The Education and Training Office provides administrative services and funding for two series of lectures established by the Institute for Trial Judges at Hunter College. The lectures are intended to provide an interdisciplinary forum stressing issues of the social sciences as they impact upon trial judges. Topics in the spring series covered the treatment of juveniles as adults; psychiatry and the law, exclusion of the press; and the trial judge's dilemma in applying the law when law and morals conflict. The autumn semester dealt with the problems of child custody; sentencing alternatives; and the law as an instrument for the enforcement of moral values.

The New York School for Psychiatry

The Office of Court Administration assisted in obtaining nominees and funding to attend two series of seminars conducted by the New York School for Psychiatry, one in Hauppauge and one in Syracuse. A small group of judges met one night a week for 13 weeks and discussed with a law professor and a psychiatrist such topics as the nature of mental illness; fitness to stand trial; the insanity defense; disposition of the insanity acquittal; involuntary civil commitment standards; commitment procedures; the right to treatment and the right to resist treatment; and the function of psychiatrists. In addition, seven judges attended a three-day seminar in Albany dealing with the topic of the mentally disabled offender.

5.4.2 Nonjudicial Programs

The Education and Training Office administered the tuition reimbursement program for State-paid court employees again in 1980. One hundred and thirty-three applications for job-related courses and degree programs were processed. In addition, the Office of Court Administration sponsored the attendance of court personnel at specialized programs addressing such topics as equal employment opportunity, judicial education, labor relations, word processing management and personnel records computerization, and the new equitable distribution law.

5.5 Other Activities

The Education and Training Office assists the work of several committees which prepare and update publications used by the judiciary. The Committee on Pattern Jury Instructions-Civil, chaired by the Honorable Leon D. Lazer, is charged with the responsibility of keeping the Civil Pattern Jury Instructions up to date.

The Committee on Criminal Jury Instructions, chaired by the Honorable Lyman H. Smith, continued to revise drafts of the next volume which will include charges of general applicability to all crimes and will contain preliminary jury instructions and appropriate guidelines to aid in classifying multicourt indictments and in charging juries on lesser included offenses. The Committee also continued to prepare for publication and distribution a supplement to Volumes II and III of the Criminal Jury Instructions Manual. This supplement will contain changes in charge language necessitated by the legislature enacted in 1980.

The Committee prepared for publication a Criminal Jury Instructions-Misdemeanor Volume which will be distributed to all judges with misdemeanor jurisdiction.

The Bench Book Committee, chaired by the Honorable Edwin Kassoff, has prepared a 1980 supplement to the Bench Book for Trial Judges, a reference work containing practical guidance on trial and courtroom procedure.

5.6 Summaries of Discussions at the Crotonville Conference

CIVIL PRACTICE LAW AND RULES

Professor Peter J. O'Connor
Fordham Law School
Reporter

The CPLR Panel was chaired by Professor David D. Siegel of the Albany Law School. The judicial members were Associate Justice Theodore R. Kupferman of the Appellate Division of the Supreme Court of the State of New York, New York City, and Justice David O. Boehm of the Supreme Court of the State of New York, Rochester. I acted as reporter.

The CPLR demonstrated that the past year was a significant one for civil practice in New York. Long arm jurisdiction was legislatively expanded in contract cases and constitutionally restricted in tort cases. The Seider doctrine of quasi-in-rem jurisdiction was constitutionally discredited. Also on the agenda were the applicability of the infancy toll of the statute of limitations to the late notice of claim extension under the General Municipal Law, the problem of substituted service at the wrong address, the application of the $10,000 realty exemption to mortgage claims, and fees in no fault cases.

The first topic for discussion was the applicability of the infancy toll of the statute of limitations to the late notice of claim extension of the General Municipal Law. The discussion was led by Justice Boehm.

An action for personal injuries against certain public corporations must be "... commenced within one year and ninety days after the happening of the event upon which the claim is based" (Gen. Mun. Law, § 50-i[1]). If the claimant is under the disability of infancy at the time of the injury, the time within which to commence the action is tolled during the period of the disability [CPLR 208; *Smith v. Rensselaer County,* 52 A.D. 2d 384, 384 N.Y.S.2d 223 (3rd Dept. 1976)]. The filing of a notice of claim with the public corporation within ninety days after the claim arises is a condition precedent to the commencement of an action against the public corporation (Gen. Mun. Law, §§ 50-e[1(a)p],50-i[1]). Prior to September 1, 1976, a court could grant an application to file a late notice of claim provided that the application was "... made within the period of one year after the happening of the event upon which the claim is based" (former Section 50-e[5] of the Gen. Mun. Law; Laws of 1945, ch. 694). The one year period was absolute and not subject to the infancy toll of the statute of limitations [*Matter of Martin v. School Bd.,* 301 N.Y. 233, 238-9, 93 N.E.2d 656, 657-658 (1950)]. Since September 1, 1976, the court is authorized to "... extend the time to serve a notice of claim [but] the extension shall not exceed the time limited for the commencement of an action by the claimant against the public corporation" (Gen. Mun. Law, § 50-e[5]; Laws of 1976, ch. 745), which is one year and ninety days "... after the happening of the event upon which the claim is based" (Gen. Mun. Law, § 50-e[1]). Contradictory decisions by the Appellate Divisions, Second and Fourth Departments have been made as to whether or not an extension of time to file a late notice of claim is subject to the infancy toll of the statute of limitations [*Cohen v. Pearl River Union Free School District,* 70 A.D.2d 94, 419 N.Y.S.2d 998 (2d Dept. 1979); *Ziecker v. Town of Orchard Park,* 70 A.D.2d 422, 421 N.Y.S.2d 447 (4th Dept. 1979)].

In each case, the infant plaintiff had failed to file a notice of claim within ninety days of the accident and had made an application to file a late notice of claim after the expiration of one year and ninety days from the date of the accident. The Second Department denied the application on the grounds that the period within which to file a late notice of claim was limited to one year and ninety days from the date of the accident and that such period was not affected by the infancy toll of the statute of limitations provided by Section 208 of the CPLR. The Second Department stated that "Had the Legislature intended that CPLR 208 should also apply to the extension period for late filing, it would have been relatively simple for it to have included the necessary implementing language in such section at the time it enacted the recent amendment to subdivision 5 of section 50-e of the General Municipal Law." (*Cohen v. Pearl River Union Free School District,* 70 A.D.2d *supra,* at 105, 419 N.Y.S.2d *supra* at 1005.) In contrast, the Fourth Department granted the application. It held that the infancy toll of the statute of limitations was applicable to the extension of time to file late notice of claims because "It is abundantly clear from the plain meaning of the statute (§50-e, subd. 5) as amended (L. 1976, ch. 745) ... "(*Ziecker v. Town of Orchard Park,* 70 A.D.2d *supra* at 425, 421 N.Y.S.2d *supra,* at 449). The Fourth Department noted that, in the case at bar, granting the application to file a late notice of claim did not prejudice the public corporation because, since it had notice of the infant's injuries and had investigated it on the day of the accident, the purpose of the notice of claim statute has been satisfied (*Ziecker v. Town of Orchard Park,* 70 A.D.2d *supra,* at 427-428, 421 N.Y.S.2d *supra,* at 450-1).

During the judges' discussion of the two decisions, an example was suggested in which a sixteen year old claimant applies for leave to file a late notice of claim for personal injuries suffered when the infant was five. The judges agreed that the potential for fraud in such a situation would be great and that, for that reason, the Second Department's denial of such late applications had merit. On the other hand, the judges noted that the Second Department's rule would be unjust to the infant plaintiff if the public corporation had actual notice of, and opportunity to investigate the accident within a reasonable time after it occurred. In that case, as the Fourth Department held, the purpose of the notice of claim statute would have been satisfied and the filing of the late notice of claim would not prejudice the public corporation.

The second topic on the agenda was the legislative expansion of long arm jurisdiction in contract cases. Your reporter led this discussion.

CPLR 302(a)(1) provides for in personam jurisdiction over any nondomiciliary, who "... transacts any business within the state . . ." Effective September 1, 1979, the statute was amended to provide also for such jurisdiction over any domiciliary, who ". . . contracts anywhere to supply goods or services in the State." (Laws of 1979, ch. 252). The amendment was proposed by the Law Revision Commission [J.M. McLaughlin, Practice Commentary to CPLR 302, C302:13 (McKinney Supp. 1979)]. It abrogates the "mere shipment rule", (*ibid*), which provided that shipment of goods into the state was not a transaction of business. See *Kramer v. Vogl*, 17 N.Y.2d 27, 267 N.Y.S.2d 900 (1966) and required shipment plus an additional circumstances, e.g., solicitation, to constitute a transaction of business [*Singer v. Walker*, 15 N.Y.2d 443, 261 N.Y.S.2d 9 (1965), *cert. den.* 382 U.S. 905 (1965)]. Under the amendment, "mere shipment" of goods into the state will provide a basis for in personam jurisdiction over the nondomiciliary shipper [J.M. McLaughlin Practice Commentary to CPLR 302, 302:13 (McKinney Supp. 1979)]. The amendment also extends long arm jurisdiction to a nondomiciliary who makes a contract outside the state calling for performance in the State and who totally fails to perform (*ibid*). Prior to the amendment it had been held that such circumstances did not constitute a transaction of business [*Platt v. Platt*, 17 N.Y.2d 234, 270 N.Y.S.2d 408 (1966)]. It should be noted that, prior to the amendment, it had been held that a nondomiciliary had not transacted New York business when he refused to pay for goods shipped to him from New York [*Galgay v. Bulletin Co.*, 504 F.2d 1062 (2d Cir. 1974)]. Under the amendment, these facts would not afford in personam jurisdiction because the nondomiciliary had not contracted to supply goods in New York [D.D. Siegel, New York Practice §86A (Supp. 1979-1980)].

The Legislature did not amend the long arm statutes of the lower courts to conform to the amendment of the CPLR (*ibid*). As a consequence, the Supreme Court may be deluged with litigation involving actions against nondomiciliaries for breach of contract to deliver goods of a value amounting to $15 or $20 (*ibid*). The Supreme Court could not on its own motions remove such actions to the appropriate lower court because the lower court would not have had jurisdiction of the nondomiciliary had the action been originally commenced there [CPLR 325(d) and see, for example, N.Y.C. Civ. Ct. Act, §§403, 404]. Also, since these actions could not be initially brought in a lower court, successful plaintiffs would be entitled to costs in the Supreme Court even though their recoveries were below the amount required for the award of costs (CPLR 8102).

During the judges' discussion, the question of the amendment's constitutionality was raised. Your reporter noted that, since 1945, the United States Supreme Court had formulated three tests for determining whether a state's exercise of in personam jurisdictions over a nondomiciliary comports with the requirements of due process. The first test is whether the nondomiciliary has ". . . certain minimum contacts with . . . [the state] such that maintainance of the suit does not offend 'traditional notions of fair play and substantial justice' " [*International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)]. The second test is whether there is some act by which the nondomiciliary purposefully availed himself or herself of ". . . the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws . . ." [*Hanson v. Deckla*, 357 U.S. 235, 253 (1958)]. The third test requires a relationship ". . . among the . . . [nondomiciliary], the forum and the litigation . . ." [*Shaffer v. Heitner*, 433 U.S. 186, 204 (1977)].

The judges agreed that few constitutional problems would be posed by New York's exercise of jurisdiction in an action against a nondomiciliary arising out of goods supplied by him in New York. In such a case, the nondomiciliary would have availed himself of the privileges of New York law, and a relationship would exist among the nondomiciliary, New York, and the litigation (see *Hanson v. Deckla, supra; Shaffer v. Heitner, supra)*. The judges noted that the value of the property involved in such litigation might involve due process issues [See D.D. Siegel, New York Practice, § 86A (Supp. 1979-1980)]. If the goods were worth five dollars, it could well be concluded that the nondomiciliary's contact with New York was so minimal that "traditional notions of fair play and substantial justice" would be offended by requiring the nondomiciliary to defend an action with respect to the goods in New York (See *International Shoe Co. v. Washington, supra)*. On the other hand, if the goods were worth fifteen million dollars, the nondomiciliary's New York contact would appear to be sufficient as a matter of due process (ibid). The judges agreed that it will be difficult to determine where the constitutional line should be drawn on a scale of five to fifteen million dollars.

There was a consensus among the judges that serious constitutional problems would attend New York's exercise of jurisdiction in an action arising out of a nondomiciliary's complete failure to supply goods in New York. In such a situation, it is conceivable that the only New York contact of the nondomiciliary would be his unkept promise to supply goods in New York—a tenuous contact at best (See *International Shoe Co. v. Washington, supra)*. By the same token, the unkept promise would hardly constitute an act by which the nondomiciliary purposefully availed himself or herself of "... the privilege of conducting activities within the forum state, thus invoking the benefits and protections of its laws ..." *(Hanson v. Deckla, supra).* Also, the nondomiciliary's unkept promise would appear to be insufficient to establish a relationship among the nondomiciliary, New York and the litigation (see *Shaffer v. Heitner, supra).*

The third topic discussed was contraction of long arm jurisdictions in tort cases as a result of the United States Supreme Court's decision in *World-Wide Volkswagen Corp. v. Woodson,* _____ U.S. _____ 100 S.Ct. 559 (1980). Associate Justice Kupferman led this discussion.

"*World-Wide* involved an Oklahoma suit against, *inter alia,* a local New York car retailer and a New York car distributor, who distributed its cars in New York, Connecticut and New Jersey. The tort action arose out of a car accident in Oklahoma. Plaintiff had purchased the car from the New York retailer in New York; the car had been one of the cars sold to the retailer by the New York distributor. The Oklahoma Supreme Court sustained in personam jurisdiction under its long arm statute because the New York defendants had caused tortious injury in Oklahoma and because the defendants derived substantial income from automobiles used in Oklahoma [*World-Wide Volkswagen Corp. v. Woodson,* _____ U.S. _____, 100 S. Ct. 559, 563 (1980)].

The Supreme Court held that Oklahoma's exercise of in personam jurisdiction violated due process. (*World-Wide Volkswagen Corp. v. Woodson,* _____ U.S. S. Ct. 559 (1980)). The Court found no evidence in the record to support the Oklahoma Supreme Court's finding that the New York defendants derived substantial income from automobiles used in Oklahoma (100 S. Ct. at 566). The Supreme Court found that the only contact the defendants had with Oklahoma was the happenstance of plaintiff's driving the car in question in Oklahoma *(ibid).* The Court held that the mere presence of the car in question in Oklahoma did not constitute evidence that the defendants had availed themselves of the privileges and benefits of Oklahoma law *(ibid).* The Court rejected the argument that, because an automobile is mobile by its very design and purpose, it was foreseeable that the car in question would cause injury in Oklahoma *(ibid).* The Court noted that foreseeability is not wholly irrelevant (100 S. Ct., at 567). It stated "... the foreseeability that is critical to due process analysis is not mere likelihood that a product will find its way into the forum State. Rather, it is that the defendant's conduct and connection with the forum are such that he should reasonably anticipate being hailed into court there" (*ibid*). The Court concluded that the foreseeability required by one process was not present in the case at bar (*ibid*).

In discussing the *World-Wide* case, Associate Justice Kupferman noted that New York's long arm statute contained a provision [CPLR 302(a)(3)(ii)] somewhat similar to that of Oklahoma. Specifically CPLR 302(a)(3)(ii) provides for in personam jurisdiction over a nondomiciliary who commits a tort outside New York causing injury in New York if the nondomiciliary "expects or reasonably should expect the act to have consequences in the state and derives substantial revenue from interstate or international commerce ..." Associate Justice Kupferman observed that the international and national distributors of the car in question were also defendants but that they had not raised due process objections to Oklahoma's assertion of jurisdiction over them. In Associate Justice Kupferman's opinion, had such objection been raised, it would have been rejected by the Supreme Court because of the Court's statement that "[t]he forum State does not exceed its powers under the Due Process Clause if it asserts personal jurisdiction over a corporation that delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum state" [*World-Wide Volkswagen Corp. v. Woodson,* _____ U.S. _____, 100 S. Ct. 559, 567 (1980)]. There was agreement among the judges at the conference that New York's long arm statute could be constitutionally sustained if its "reasonable expectation" provision were applied in the manner suggested by the Supreme Court. Your reporter noted that Appellate Division, Second Department had recently interpreted the provision in question in the manner suggested by the Supreme Court in *Darienzo v. Wise Shoe Stores, Inc.,* 74 A.D.2d 342, 427 N.Y.S.2d 831 (1980). *Darienzo* involved an action for personal injuries sustained by plaintiff because of a fall caused by a defective heel in a pair of shoes purchased by her from a retailer in New York. The Appellate Division sustained jurisdiction over the third party defendant Vermont manufacturer because, although it shipped the shoes in question to Tennessee, it knew that the shoes would be redistributed to stores in New York (74 A.D.2d at 346, 427 N.Y.S.2d at 834).

The fourth topic discussed was the problem of substituted service at the wrong address. Professor Siegel led this discussion.

CPLR 308(4) provides that, in certain circumstances, personal service of process may be made "... by affixing the summons to the door of either the actual place of business, dwelling place or usual place of abode ... of the person to be served and by mailing the summons to such person at his last known residence ..."

In *Feinstein v. Bergner,* 48 N.Y. 234, 422 N.Y.S.2d 356 (1979), the Court of Appeals dismissed an action because, although the summons had been mailed to the defendant's last known address, it had not been affixed at the defendant's actual dwelling place. The summons had been affixed and mailed to the home of the defendant's parents. Unbeknown to the plaintiff, the defendant had moved from his parents' home some time previously. Although the process was mailed to the defendant by his father, the Court held that jurisdiction had not been acquired because of plaintiff's failure to affix the summons at the defendant's actual dwelling place. The Court held that the defendant could not be estopped from urging defective service because there was no proof that defendant had engaged in conduct which was calculated to prevent plaintiff from learning defendant's new address. The Court observed that "[s]ince potential defendants ordinarily have no affirmative duty to keep those who might sue them abreast of their whereabouts . . ., we find no basis for invoking the estoppel doctrine here" (48 N.Y.2d at 241-242, 422 N.Y.S.2d at 360).

At the conference, the judges were of the opinion that the *Feinstein* result is harsh on plaintiffs whose claims are barred by the statute of limitations. The judges agreed with several remedies proposed by Professor Siegel for alleviation of the *Feinstein* result. The first proposed remedy would permit commencement of a second action within six months of a Feinstein dismissal [CPLR 205(a)] if the defendant had received notice in the first action [*cf., Amato v. Svedi,* 35 A.D.2d 672, 315 N.Y.S.2d 63 (2d Dept. 1970)]. A second remedy would permit a more generous interpretation of expedient service under CPLR 308(5) where a plaintiff expressed doubts as to whether an address was in fact the actual dwelling place of the defendant. In such a case, expedient service could be ordered upon the defendant's insurance carrier and upon a relative or friend of the defendant. A third remedy would be estoppel of the defendant from urging a time bar if the plaintiff's check with the Post Office and the defendant's insurance carrier had failed to disclose the defendant's new actual dwelling place.

The fifth topic discussed was the retroactivity of the United States Supreme Court's decision in *Rush v. Savchuk,* _____ U.S. _____, 100 S. Ct. 571 (1980), which overruled *Seider v. Roth,* 17 N.Y.2d 111, 269 N.Y.S.2d 99 (1966). The discussion was led by Professor Siegel.

Seider held that attachment of a nondomiciliary's liability insurance policy in New York provides a predicate for quasi in rem jurisdiction in a New York action against the nondomiciliary for damages arising out of an accident outside New York. On January 21, 1980, in a case from Minnesota, the United States Supreme Court held that the *Seider* doctrine violated due process and, accordingly, was unconstitutional [*Rush v. Savchuk,* _____ U.S. _____, 100 S. Ct. 571 (1980)].

Professor Siegel stated that quite obviously new *Seider* cases could not be constitutionally brought in New York after January 21, 1980, the date of the *Savchuk* decision. The critical question raised by *Savchuk* is its applicability to the perhaps thousands of *Seider* cases pending when *Savchuk* was decided. Professor Siegel noted that these pre-*Savchuk Seider* cases had been brought on the assurance of the courts—both federal and New York—that the *Seider* doctrine was constitutional [see *Hanover Insurance Co. v. Victor,* 393 U.S. 7 (1968) (dismissing appeal for want of substantial federal question; sole issue was constitutionality of *Seider* doctrine); *Minichiello v. Rosenberg,* 410 F.2d 106 (1969), *cert. den.* 396 U.S. 844 (1969); *O'Connor v. Lee-Hy Paving Corp.,* 579 F.2d 104 (2d Cir. 197); *Baden v. Staples,* 45 N.Y.2d 889, 410 N.Y.S.2d 808 (1978)]. Professor Siegel urged that it would be grossly unjust for the New York courts to dismiss these cases particularly if institution of new actions would be time barred in the appropriate foreign jurisdiction. According to Professor Siegel, such actions should not now be dismissed if the defendant failed to raise the jurisdictional objection in a 3211 motion or in the answer [CPLR 3211(a)(9) and (e); *Ranz v. Sposato,* _____ M.2d _____, N.Y.S.2d (Egeth, J., Index No. 21781/75, Sup. Ct., N.Y. Cnty. 1980)], and that such actions should be dismissed only if the defendant raised the objection by a 3211 motion and pursued an appeal from its denial prior to the *Savchuk* decision [see *Erneta v. Princeton Hospital,* 49 N.Y.2d 829, 427 N.Y.2d 794 (1980), *rev'g* 66 A.D.2d 669 (1st Dept. 1978); *Morehouse v. Volkswagen Aktiengesellschaft,* 74 A.D.2d 164, 427 N.Y.S.2d 514 (1980); *contra Tomaszewski v. Cleveland,* 103 M.2d 355, 425 N.Y.S.2d 966 (Sup. Ct., Erie Cnty. 1980)].

The sixth topic discussed was fees in no fault cases. Justice Boehm summarized the decision of the Court of Appeals in *In re Fresh Meadows Medical Association,* 49 N.Y.2d 93, 424 N.Y.S.2d 361 (1979), which held that an arbitration in no fault proceedings may take into account in the fixing of an attorney's fee, services rendered by an attorney in substantiating his claim for his fee [see also *In re Country-Wide Insurance Co.,* 48 N.Y.2d 831, 424 N.Y.S.2d 132 (1979)].

The seventh topic discussed was the application of the $10,000 realty exemption to mortgage claims. Associate Justice Kupferman summarized the decision of *Wyoming County Bank & Trust Company v. Kiley,* _____ M.2d _____, _____ N.Y.S.2d _____ (Wyoming County Court 1980), which held that the $10,000 homestead exemption provided by CPLR 5206 applies to the proceeds by a mortgage foreclosure sale.* The judges at the conference agreed that the exemption applies only to the proceeds of a sale held in satisfaction of a money judgment.

EVIDENCE

Professor Robert A. Barker
Albany Law School
Reporter

The Evidence panel was chaired by Dean Emeritus Jerome Prince of the Brooklyn Law School, and included the Honorable Thomas M. Stark, the Honorable Donald J. Sullivan and this reporter. The focus was on the proposed Code of Evidence for New York. Time permitted study of only two articles—witnesses and hearsay—and then only those sections which change current New York evidence rules.

Witnesses

Section 601—Abolition of the Dead Man's Statute.
Surprisingly perhaps, eliminating the dead man's rule did not create as much controversy as might have been expected. The judges were in sympathy with this move by a 2-1 margin. Neither was there great movement for

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*The Fourth Department reversed the County Court and held that the exemption does not apply to the proceeds of a mortgage foreclosure sale [*Wyoming County Bank & Trust Company v. Kiley,* 75 A.D. 2d 477, _____ N.Y.S. 2d _____ (4th Dept. 1980)]. The reversal occurred after the conclusion of the conference.

substituting a less complicated rule, or for changing the burden of proof or mandating a special interested witness charge. These alternative measures were discussed, but the large majority were content to see the end of the rule and the use of the usual interested witness charge which is given now with respect to any witness who is interested, for whatever reason, in the outcome of the trial. The vote was no doubt influenced by two factors: Supreme Court Justices and County Court Judges seldom have to deal with the rules, and, secondly, Dean Prince's several examples of the often ludicrous manner in which present CPLR 4519 operates tended to show that there are at least as many worthy claimants defeated by the statute as there are estates which are plundered by dishonest claimants.

Sections 601 and 603 - Oath and Competency.

By a 3-1 margin the judges approved these measures which have the effect of permitting an infant or mentally deficient person to testify so long as such a witness is capable of taking an oath or making an affirmation. The court need no longer make a preliminary determination as to competency. The witness' ability to observe, recall and relate will bear on the jury's assessment of credibility. This will have the effect of speeding up proceedings and eliminating age-old, finely spun distinctions between competency and credibility.

Section 607(b) - Voucher Rule.

This section states that "[t]he credibility of a witness may be attacked by any party, including the party calling him." Under current law a party may not impeach his own witness and this has led to unwarranted confusion concerning the difference between impeachment and contradiction which is perfectly acceptable (see *Spaminato v. A.B.C. Consolidated Corp.*, 35 NY2d 283). Moreover the reason for the current rule—that counsel should not present a witness unless he is willing to vouch that he is worthy of belief—is not very persuasive when one considers that counsel must take his witnesses as he finds them. There was some concern that the new section would permit devious tactics such as calling an opposing party solely to destroy him. Dean Prince pointed out, however, that impeachment cannot come about until there is something to impeach, i.e., until the witness has given positive testimony. The new section passed muster by a 3-1 margin.

Section 608(b) - The Sorge *Rule.*

This section limits the *Sorge* inquiry into prior bad acts to those acts which bear specifically on truthfulness or untruthfulness and places the burden in criminal cases on the prosecutor to raise the specific instances he desires to use. In addition, the section requires a finding that the probative effect of such evidence would outweigh prejudice to the defendant. Many judges were concerned that limiting the acts to those relating to truthfulness, such as forgery, perjury, and other crimes involving the elements of fraud and deceit was overly protective of witnesses who had committed crimes of violence thus putting their interests ahead of those of society; that the jury should be able to assess credibility in that light as well. Despite these considerations, the judges voted 2-1 in favor of the new section.

Section 609(a) - Prior Convictions.

Under current law, prior convictions for felonies, misdemeanors and violations may be inquired into for impeachment purposes in criminal trials (CPL 60.40), but only felonies and misdemeanors may be produced in civil trials (CPLR 4513). The anomaly has been ironed out in new section 609(a) which refers to convictions for "crimes", thus eliminating the prior violation. Also, an arbitrary distinction is made between felonies and misdemeanors so that any felony conviction can come in, while misdemeanor convictions are limited to those which reflect on truthfulness. The vote on this measure was evenly split due primarily to this arbitrariness. In many instances, a witness will have committed a felony, but have been convicted of only a misdemeanor because he copped a plea. If the underlying crime was one of violence it will then not be usable. If this disturbing element were removed so that either all crimes had to relate to truthfulness, or none did, then the vote would probably have conformed more closely with that taken on section 608(b), the limited *Sorge* rule. With respect either to impeachment for prior bad acts, or to impeachment by use of prior convictions, the *Sandoval* procedural rules would still apply as respects witnesses who are defendants in criminal cases (§608[b], §609[b]).

Section 611(b) - Scope of Cross Examination.

Presently in New York, the matter approachable on cross examination is defined by the matter discussed on direct examination. This section states that "[a] witness may be cross-examined on any matter relevant to any issue in the case, including credibility." This, of course, eliminates the often perplexing problem of what constitutes new matter and whether the cross-examiner has made the witness "his own." The section also gives the judge discretion to limit cross examination or direct that further questioning proceed as if it were direct examination. This provision received unanimous approval.

Hearsay

Section 801(d)(1)(A) - Prior Inconsistent Statement.

This provision allowing for the use of prior inconsistent statements as evidence-in-chief, rather than as now just for impeachment purposes, generated considerable discussion, especially regarding the difference between criminal and civil cases. The judges voted overwhelmingly in favor of the provision insofar as civil cases are concerned. The courts in New York have been inching that way anyway (*Letendre v. Hartford Acc. & Indem. Co.*, 22 NY2d 518; *Vincent v. Thompson*, 50 AD2d 211). The judges were also disposed by a much smaller margin to allowing these statements for their truth in criminal cases. There was more hesitation here because of the thought that it would, under this provision, be possible to obtain a conviction largely on the basis of out of court statements. This feeling probably overlooks the fact that such statements alone would not make up evidence of guilt beyond a reasonable doubt. In cases where prior statements would not be admissible for their truth, such as suppressed confessions under the *Harris* rule (*Harris v. New York*, 401 U.S. 222), but where they can still come in to impeach, section 613(a) removes the need for any foundation, i.e., as to the time, place and circumstance involving the statement. The witness may simply be confronted with the statement, without more. The groups were split on this, many feeling that such foundations ought still to be required, yet there was a slight majority in favor of removing the foundation requirement, something the English did in 1854.

Section 801(d)(2)(D) - Admissions by Agent.

No opposition of any consequence was directed at this section which provides that statements made during the employment by agents or servants "concerning" a matter within the scope of their employment are admissible against the employer or principal. This frees New York from its present limited rule that for such statements to be so admitted the employee or agent would have to be specifically authorized to make them.

Section 801(d)(2) - Admissions Without Privity.

This subdivision defines the various sorts of admissions and relationships which make the statement of one person binding on another. Significant is the fact that there is no provision for admission of statements against a party made by someone in some sort of legal privity with the party (e.g., former owner of real property). If the declarant is unavailable his statement could come in as a declaration against interest. Where there is no connection between the declarant and the party other than this purely legal one, it makes little sense to bind the party with statements made at a time when he had no connection with the subject matter. The judges unanimously agreed.

Section 803(1) - Present Sense Impression.

No little consternation was voiced over the present sense impression exception. This new rule would allow statements made by an observer of an event about the event at the time of the happening of the event or immediately thereafter. The declarant need not be a participant and his statement need not be activated by excitement or pressure. A statement by a bystander, calling out license plate numbers immediately after a bank robbery, might serve as an example. Even though this declarant is unknown, his information is admissible to link defendant to the crime. There was almost unanimous opposition to this, mostly out of fear of the phantom witness and the limitless opportunity for mischief it affords. There was no opposition to 803(1)'s first cousin, 803(a), the excited utterance or spontaneous statement exception. This rule is in conformity with current New York case law. (*People v. Caviness,* 38 NY2d 227; *People v. McCullough,* 73 AD2d 310.)

Section 803(3) - State of Mind—Physical Condition.

No problem was found with the facet of this section which allows declarations by a person relating to his intent or plans to prove that his objective was achieved. *(Mutual Life v. Hillmon,* 145 U.S. 285.) Broadening of the exception relating to expressions of pain, however, drew considerable oppositions. Currently only involuntary expressions of present pain, such as groans, are admissible where the witness is a lay person. The section would allow in narrative expressions of present pain. The judges felt that whereas presently the guarantee of truthfulness lies in the involuntary groan, there is room for abundant manufacture of evidence under the enlargement of the rule. Certainly, groans and moans could be faked also, but the judges did not see this as any reason to expand the rule and voted against it 2-1.

Section 803(4) - Statements Made for Diagnosis and Treatment.

There was substantial concern over this section which would allow expressions of present and past pain made to a physician and the external cause of the pain if pertinent to diagnosis and treatment. This expands current New York law which allows only expressions of present pain made to a physician for purpose of diagnosis and treatment. The judges' problem with the new rule was not so much that it allowed statements as to past pain (the trustworthiness still lying in the declarant's hope of receiving appropriate treatment), but that it permits statements which are made to anyone in a position to render aid, not just doctors; and that statements are permitted which are made to a doctor examining solely for the purpose of later giving expert testimony. The latter aspect greatly bothered the judges who would have been overwhelmingly in favor of the section without it even though it embraced paramedics and family members as witnesses. With the coverage broad enough to include hired experts as witnesses, there was but a slight majority in favor of it.

Section 804(b)(1) - Former Testimony.

The most revolutionary aspect of the new former testimony rule is that under it former testimony is admissible when the party against whom it was offered the first time had a motive and interest similar to that of the party against whom offered the second time. Doubt over the wisdom of this stemmed mainly from the fact that there may be inept counsel at the first trial; or that, while the issues may have been similar, the stakes were not the same thus leaving the party at the second trial the victim of a situation over which he had no control. In criminal cases, although there still must be an identity of parties, the rule would act to allow in a transcript from a prior administrative hearing if the motive and interest test were met (thus overruling the decision in *People v. Harding,* 37 NY2d 130). The judges were opposed to the section as it would apply in civil cases, 3-1. They voted in favor of it as it would apply in criminal cases, however, 2-1.

Section 804(2) - Dying Declaration.

Presently in New York, the dying declaration exception is usable only where the declarant is the victim of a homicide and names his killer. This section greatly expands the exception so that the statement need only be made "under belief of impending death" concerning the cause of declarant's plight and is admissible in any action where the statement would be relevant. The declarant need not have died, but he must be unavailable. Remarks directed against this were to the effect that declarants could create wrongful death and survival causes of action where they might otherwise have no foundation. Nevertheless, the broadened rule received 2-1 approval.

Section 804(3) - Declaration Against Interest.

The law in New York now is that a statement against declarant's pecuniary, proprietary or penal interest will be admissible if declarant is unavailable *(People v. Brown,* 26 NY2d 88). It is agreed among observers that "civil liability" interest would be added to that list were the Court of Appeals to get such a case. This section includes all four as interests suitable for evidentiary purposes, and adds statements which would render the declarant the object of hatred, ridicule or disgrace. Surely such statements would have the ring of truth or else they wouldn't be spoken. The judges endorsed this rule almost unanimously, although there was some discussion as to what is considered disgraceful anymore. For example, a person possessing deviate sexual preferences might well announce this with pride in certain groups and for certain reasons. Such a statement would retain a guarantee of trustworthiness, and while perhaps not thought disgraceful by the declarant would nevertheless tend to make him an object of ridicule from other quarters. Such a statement would thus seem to qualify under this exception.

Sections 803(24) and 804(5)-Residual Exceptions.

These sections provide a means by which hearsay can be admitted even though it does not fall within any of the other 23 exceptions of section 803, or four exceptions of 804. That these are not designed as catchalls to make meaningless the hearsay rule is demonstrated by the fact that admissibility under these subdivisions are very carefully circumscribed. There must be exceptional circumstances and five conditions must exist: the statement must have substantial guarantees of trustworthiness; it must be more probative than other evidence which the proponent can produce; there must be an exceptional need for the statement; pre-trial notice must be given to the adversary of the intention to use it; and the court must make specific findings supporting the guarantees of trustworthiness and exceptional need. The judges were comfortable with these provisions and unanimously endorsed the subdivisions.

Conclusion

This was the first exposure of even part of the proposed code to organized comment and criticism. Certainly the code cannot eliminate all evidence problems, or guarantee 100 percent trustworthiness in all hearsay situations. The rules of admissibility have always rested on balance, i.e., that even though the matter might be suspect, it is admissible if it is more probable than not that it is genuine. Weaknesses can be evaluated by the jury.

The aim of the code is to help in harmonizing evidence rules throughout the country and to streamline and update many of the common law and statutory rules in New York. The appellate courts in New York have taken opportunities as they are presented to accomplish this task, case by case, and it is clear that these courts lean toward more liberalized rules of admissibility. (See, e.g., *People v. Caviness,* 38 NY2d 227; *Letendre v. Hartford Acc. & Indem. Co.,* 21 NY2d 518; *Fleury v. Edwards,* 14 NY2d 334.) And, while many provisions in the code will require judicial interpretation under differing trial situations, the basic rules will be collected together for quick and handy reference.

The summary of code provisions prepared for discussion (item II of the Evidence materials) contains four hearsay exceptions which were not reached during the discussions. They are 801(b)(2) (Conduct as Hearsay); 803(6) (Regular Entries Rule); 803(18) (Learned Treatises); and 804(b)(4) (Pedigree). Seminar participants are urged to check the summary squibs on these provisions which highlight the changes they bring about.

Addendum

On August 4th and 11th the evidence panel met with additional groups of judges at their Grossinger's meetings. The results of the polling were much the same as those reported in the body of this report. Three departures, however, deserve comment.

As to section 608(b) (the *Sorge* rule) the judges at Grossinger's were more evenly split although a majority remained in favor of the provision.

The use of prior convictions for impeachment under 609(a) found a majority of the Grossinger's judges opposed to the measure.

The present sense impression provision (803[1]) appealed to the Grossinger's judges far more than it did to the groups at Crotonville.

CRIMINAL LAW AND PROCEDURE

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Reporter

It was a pleasure to serve on this year's Criminal Law and Procedure Panel under the chairmanship of Joseph W. Bellacosa with Justice Vincent Doyle, Justice Gerald Held and Professor Peter Preiser.

We covered a wide range of topics, discussing new decisions with respect to: search and seizure; plea bargaining; jury charges; the right to counsel; lesser included offenses; joint representation; conspiracy and mental disease and extreme emotional disturbance. We also presented an outline of new legislation passed at the 1980 session of our Legislature.

Search and Seizure

Mr. Bellacosa led the discussion of four cases regarding the permissible scope of a search conducted pursuant to a valid search warrant, the appropriate basis for a warrantless search, the limits of authority to conduct a warrantless search incident to arrest and the necessity of obtaining an arrest warrant to authorize entry of a dwelling to arrest a suspect.

On November 28, 1979, the United States Supreme Court struck down an Illinois statute which authorized law enforcement officers to detain and search any person found on premises being searched pursuant to a search warrant, to protect themselves from attack or to prevent the disposal or concealment of anything described in the warrant. *Ybarra v. Illinois,* _____ U.S. _____, 100 S. Ct. 338. In *Ybarra,* the Court determined that the application of the statute to the circumstances surrounding the search of the defendant violated the Fourth and Fourteenth Amendments.

The subject warrant authorized the search of a particular tavern and its bartender. Upon entering the tavern to execute the warrant, the police proceeded to frisk each of the patrons including the defendant who was found to possess a cigarette pack containing heroin.

The absence of probable cause to search the defendant at the time the warrant was issued and at the time of the subsequent search required suppression despite the statutory provision granting broad authority to search when necessary to prevent the disposal or concealment of the items to be seized. Although the police possessed a warrant based on probable cause to search the premises in which defendant was found, his mere propinquity to others independently suspected of criminal activity did not give the police probable cause to search him. *Sibron v. New York,* 392 U.S. 40, 62-63.

The Court also rejected the State's argument that the defendant's search constituted a reasonable frisk for weapons under *Terry v. Ohio,* 392 U.S. 1. Since the search of defendant was not supported by a reasonable belief that he was armed and dangerous, it could not be justified under the narrow *Terry* exception to the probable cause requirement.

Mr. Bellacosa noted that *Ybarra* has virtually limited the *Terry* exception to instances in which the police have reasonable suspicion to believe that a suspect possesses a weapon, and, therefore, it is inapplicable when the presence of mere narcotics is suspected. He also observed that *Ybarra* does not present a novel approach to New York courts since they have already required a specific articulable reason to search an individual. See, *People v. LaPene,* 40 N.Y.2d 210, 221.

In *People v. Elwell,* 50 N.Y.2d 231, the Court of Appeals determined that a warrantless search is not permissible "on the basis of information supplied without any indication of how the informant acquired his knowledge when the police have been able to confirm by their own inquiry and observation, details supplied by the informant which are personal in nature and not in any way suggestive of criminal activity." 50 N.Y.2d at 234. This case provided an excellent opportunity to review the "two-prong" test which establishes probable cause for a search based upon data supplied by an informant. See, *Aguilar v. Texas,* 378 U.S. 109. Once the reliability of the informant has been established, the basis of his knowledge must also be demonstrated. *Spinelli v. United States,* 393 U.S. 410; *Draper v. United States,* 358 U.S. 307.

The acceptable standard for demonstrating this basis of knowledge was at issue in *Elwell.* While acknowledging that a "less stringent test" may have been imposed by the United States Supreme Court in *Draper,* the Court of Appeals adopted the following rule "as a matter of state constitutional law":

> [A] warrantless search or arrest will be sustained only when the police observe conduct suggestive of, or directly involving, the criminal activity about which an informant who did not indicate the basis for his knowledge has given information to the police, or when the information furnished about the criminal activity is so detailed as to make clear that it must have been based on personal observation of that activity. 50 N.Y.2d at 241.

A limited exception to this rule was deemed applicable to the issuance of a search warrant. Although the "two-prong" test also applies to applications for a search warrant, the independence and expertise of the issuing judge permits him to act on the basis of confirmed non-criminal detail when in his opinion that detail is "so explicit and extensive and so well confirmed by police observation as to warrant the inference that the informant or his source was speaking from personal observation." 50 N.Y.2d at 242.

Mr. Bellacosa emphasized that this case was an illustration of the trend in New York toward affording more protection to a defendant's constitutional rights than may be required under parallel federal standards.

The permissible scope of a warrantless search incident to a lawful arrest was the subject of the Court of Appeals decision in *People v. Belton,* 50 N.Y.2d 447. Following *United States v. Chadwick,* 433 U.S. 1, the Court of Appeals determined that once an arrestee has been effectively neutralized, any exigency which would otherwise have justified a warrantless search has been dissipated and the search is no longer incident to an arrest. 50 N.Y.2d at 452.

Mr. Bellacosa concluded that search and seizure discussion by reporting that in *Payton v. New York,* _____ U.S. _____, 100 S. Ct. 1371, the United States Supreme Court held that section 140.15(4) of our Criminal Procedure Law was unconstitutional as applied, and that an arrest warrant must be obtained before police may enter a suspect's home to make a "routine" felony arrest, absent exigent circumstances.

Right to Counsel

The Court of Appeals' avid protection of a defendant's constitutional rights is most apparent in recent cases addressing the right to counsel of suspects during police interrogation. As Professor Preiser noted, each case resulted in a refinement and expansion of previous opinions indicating the increasing respect for fundamental Fifth and Sixth Amendment rights.

In *People v. Rogers,* 48 N.Y.2d 167, the Court of

Appeals reaffirmed and clarified the *Arthur-Hobson* rule[1] which prescribes that once an attorney has entered the proceeding, thereby signifying that the police should cease questioning, a defendant in custody may not be further interrogated in the absence of counsel. In *Rogers*, the Court of Appeals restated its support for this rule and disapproved previous limitations upon it by expressly applying it to all interrogation including that considered to be unrelated to the proceeding in which counsel was retained. Professor Preiser also noted that one exception to this rule which remains viable is the treatment of spontaneous statements. In *People v. Lynes*, 49 N.Y.2d 286, the Court of Appeals upheld the denial of a motion to suppress a statement made voluntarily and spontaneously, and not as the product of any police interrogation.

In *People v. Cunningham*, 49 N.Y.2d 203, the Court of Appeals continued its "logical extension" of right to counsel principles. With respect to Fifth Amendment concerns, *Miranda v. Arizona*, 384 U.S. 436, will be strictly construed in New York, and once a suspect in custody requests the assistance of counsel after receiving his *Miranda* warnings, he may not be questioned in the absence of a lawyer. Therefore, an uncounseled waiver of a constitutional right will not be deemed voluntary if it is made after the right to counsel has been invoked. *People v. Cunningham, supra*, at 210.

The Sixth Amendment right to counsel was further clarified and expanded in *People v. Samuels*, 49 N.Y.2d 218. In New York, this right attaches at the time an accusatory instrument is filed, and, therefore, statements obtained in the absence of counsel after the criminal proceeding is commenced should be suppressed. 40 N.Y.2d at 223.

Professor Preiser concluded the discussion of this topic by analyzing two recent United States Supreme Court opinions illustrating the distinction between Fifth and Sixth Amendment concerns in this area. *Rhode Island v. Innis*, ____ U.S. ____, 100 S. Ct. 1682, determined what is "interrogation" for purposes of the need to apply *Miranda* safeguards to protect a suspect's Fifth Amendment privilege against self-incrimination. In determining whether a person's Fifth Amendment rights have been violated, Professor Preiser indicated that an objective test is utilized and a statement will be deemed the product of custodial interrogation only if the words or actions of the police demonstrate that they should have known they were reasonably likely to elicit an incriminating response.

In contrast to this objective analysis, the United States Supreme Court applied a subjective test to determine that the admission at trial of statements made by an indicted defendant to a government informer violated defendant's Sixth Amendment right to counsel. *United States v. Henry*, ____ U.S. ____, 100 S. Ct. 2183. This Sixth Amendment right, initially recognized in *Massiah v. United States*, 377 U.S. 201, is designed to prevent government interference with a defendant's right to counsel, and, therefore, whenever a government agent deliberately elicits incriminating statements after that right attaches, a Sixth Amendment violation occurs. While an objective reasonable person standard may be applied to determine whether interrogation occurs for Fifth Amendment-*Miranda* purposes a subjective analysis of the government agent's intent is required to determine whether statements were deliberately elicited in violation of Sixth Amendment-*Massiah* standards.

Joint Representation

Mr. Bellacosa examined another illustration of differing New York and federal interpretations of a constitutional right through his presentation of two cases governing the trial judge's role when confronted with the joint representation of two or more defendants by a single lawyer.

In *People v. Macerola*, 47 N.Y.2d 257, the possibility of a conflict of interest prompted the Court of Appeals to require trial judges to "ascertain on the record whether each defendant had an awareness of the potential risks of joint representation." 47 N.Y.2d at 265.

Mr. Bellacosa noted that a more lenient requirement was imposed by the United States Supreme Court in *Cuyler v. Sullivan*, ____ U.S. ____, 100 S. Ct. 1708. Although the *Cuyler* Court recognized that the Sixth Amendment requires a trial judge to investigate timely objections to joint representation, the judge need not initiate the inquiry unless he knows or reasonably should know that a particular conflict exists. 100 S. Ct. at 1717.

Conspiracy

Justice Held led the discussion of three Court of Appeals decisions addressing the extent of criminal liability of a defendant charged with conspiracy, the evidentiary problems involved in establishing corroboration of accomplice testimony and the admissability of an alleged co-conspirator's statement in furtherance of the conspiracy.

In *People v. McGee*, 49 N.Y.2d 48, the Court of Appeals declined to follow the *Pinkerton* rule[2] applicable to federal substantive offense to be predicated upon a defendant's mere participation in an underlying conspiracy. Justice Held noted that the overt act required to be proved to establish conspiracy is not the underlying crime itself but merely an element of the conspiracy which is based upon an agreement. Therefore, accessorial conduct constituting liability for the underlying crime may not be equated with mere membership in a conspiracy. 49 N.Y.2d at 58.

People v. Cona, 49 N.Y.2d 26, involved a complicated factual pattern in which a police officer originally worked undercover to investigate criminal activity, then joined the criminal enterprise, and finally withdrew to aid the prosecution. Justice Held explained that the Court of Appeals refused to draw fine distinctions concerning when the police officer was an accomplice whose testimony had to be corroborated. The purpose of the accomplice corroboration rule is to avoid conviction based solely upon the testimony of persons who are in some way criminally implicated in the subject transaction. Therefore, no justification exists for distinguishing between testimony pertaining to different periods of time when the witness was moving in and out of the criminal enterprise. 49 N.Y.2d at 35.

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[1] *People v. Arthur*, 22 N.Y. 2d 325; *People v. Hobson*, 39 N.Y. 2nd 479.

[2] *Pinkerton v. United States*, 328 U.S. 640

The difficult and perplexing problem of determining when statements made in furtherance of a conspiracy are admissible against co-conspirators was the subject of the opinion in *People v. Berkowitz*, 50 N.Y.2d 333. Justice Held explained the applicable principles as follows:

> Although normally an admission made by one defendant is not binding upon and may not be used against another defendant, the rule is somewhat different with respect to conspiracy. Where two or more persons have entered into an illicit agreement to commit a crime, each of them to some extent may be deemed to speak as an agent for the others with respect to statements made in furtherance of and in the course of that conspiracy. Thus, once a prima facie case of conspiracy has been made out, such statements are admissible against each co-conspirator. 50 N.Y.2d at 341.

Applying these principles to the case at bar, the Court of Appeals held that a prima facie case of conspiracy was established through defendant's own statements and overt acts, and that, therefore, the co-conspirator's statements were properly admitted against the defendant. 50 N.Y.2d at 342.

While the enunciation of these principles resolves certain ambiguities, Justice Held concluded by explaining a number of issues which are still left unsettled. For example, at what point during a trial may a co-conspirator's statement be received subject to a later establishment of conspiracy, and what should be the result when the statement of the co-conspirator is necessary to prove the conspiracy?

Lesser Included Offenses

Justice Doyle led the discussion of the proper submission to the jury of lesser included offenses by reviewing the provisions of CPL §300.50 and their latest interpretation by the Court of Appeals in *People v. Scarborough*, 49 N.Y.2d 364.

Pursuant to subdivision one of section 300.50, in submitting a count of an indictment to a jury, the court may submit in the alternative any lesser included offense if there is a reasonable view of the evidence which would support a finding that the defendant committed the lesser offense but did not commit the greater.

In *Scarborough*, the Court of Appeals observed that section 300.50 was intended to reflect the so-called *Mussenden* rule[3] which was the prevailing case authority governing the submission of lesser included offenses. Under that rule the submission of a lesser crime was justified only when there was some basis in the evidence for finding the accused innocent of the higher crime, and yet guilty of the lower one. While admitting that a literal interpretation of some opinions rendered after the enactment of section 300.50 may indicate a slight departure from the reasonable basis test,[4] the *Scarborough* Court reemphasized the soundness of the rule. The Court concluded that under the facts presented the trial judge properly refused defendants' request to submit counts of possession of a controlled substance as lesser included offenses of the charge of criminal sale where there was no rational basis for the jury's rejection of testimony establishing a sale but accepting testimony supporting mere possession. 49 N.Y.2d at 374.

Justice Doyle also observed that due to the risk of repugnant verdicts, it may be desirable to also instruct the jury to disregard the lesser included offense if the jury finds defendant guilty of the greater crime. He also emphasized that the *Scarborough* case illustrates the difficulty in applying a strict rule to various factual situations, and the tendency of appellate courts to tailor these rules depending upon what is reasonable under the circumstance of the specific case before them.

Justice Doyle also led the discussion of *People v. McConnell*, 49 N.Y.2d 340, and its impact upon plea negotiations.

Gerald McConnell pleaded guilty to manslaughter in the second degree with the understanding that if he testified against his co-defendants before the grand jury, his sentence would not exceed ten years. McConnell lived up to his part of the bargain and his testimony resulted in the indictment of himself and two others for murder and related crimes. At the time of sentence, the court declined to abide by the sentence agreement because McConnell's testimony at the trial of a co-defendant revealed that McConnell had stabbed the victim. McConnell refused the offer to withdraw his plea and was sentenced to a maximum of 15 years.

In reversing the sentence and awarding specific performance of the ten year promise, the Court of Appeals recognized that merely vacating the plea would constitute a "substantial injustice." The plea bargaining policy detailed in *People v. Selikoff*, 35 N.Y.2d 227, requires specific performance when a defendant such as McConnell so changes his position in reliance upon the agreement that it is impossible to make him whole again. As the Court stated:

> Permitting defendant to proceed to trial is a satisfactory remedy when, by pleading guilty, the defendant has given up nothing but his right to trial. But where the defendant not only waives his right to trial, but performs other services that involve considerable risk or sacrifice, merely undoing the

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[3] *People v. Mussenden*, 308 N.Y. 558.

[4] See, *e.g.*, *People v. Perez*, 45 N.Y. 2d 204.

> plea is small compensation if any. 49 N.Y.2d at 348, *citing, Chaipis v. New York State Liquor Authority*, 44 N.Y.2d 57.

Justice Doyle also cautioned against interpreting *McConnell* as establishing a broad right to specific performance in plea negotiations. Due to the peculiar fact pattern involved, *McConnell* may have only limited applicability.

Mental Disease and Extreme Emotional Disturbance

Professor Preiser discussed the elements of the extreme emotional disturbance affirmative defense as formulated by the Court of Appeals in *People v. Casassa*, 49 N.Y.2d 668.

In *Casassa*, the trial judge, after a nonjury trial, refused to apply a subjective standard and determined that defendant had failed to establish his affirmative defense.

In affirming the conviction, the Court of Appeals interpreted the affirmative defense codified in section 125(1)(a) of the Penal Law as requiring a standard of evaluation containing both subjective and objective elements. Initially, defendant must establish that his action was undertaken as a response to some provocation which resulted in extreme emotional disturbance. *People v. Patterson*, 39 N.Y.2d 288, 303. Having passed this subjective threshold, the defendant must also show that there was a reasonable explanation or excuse for that disturbance. Since in *Casassa* the trial court found that defendant's actions were the result of his own "malevolence rather than an understandable human response deserving of mercy," his conviction could not be reduced from murder to manslaughter in the first degree. *People v. Casassa, supra*, at 680-681.

Jury Charges

Mr. Bellacosa led a discussion of the so-called Sandstrom cases[5] in which the Court of Appeals construed the United States Supreme Court mandate with respect to jury instructions concerning the element of intent.

In *People v. Marr*, 50 N.Y.2d 456, the Court of Appeals reviewed two cases in which the defendants claimed that the judges' charges violated *Sandstrom*.[6]

In the first case *(People v. Marr)*, the Court ruled that the objectionable charge followed almost verbatim the language found unconstitutional in *Sandstrom*, without further explanation or qualification, and, therefore, the conviction had to be set aside. 50 N.Y.2d at 464.

In the second case *(People v. Getch)*, however, the trial judge qualified his remarks by stating that the jury "may infer" that a person intends the natural consequences of his act, and emphasized before and after mentioning the inference that the "jury should consider all the evidence, all the testimony and all the circumstances surrounding the incident 'to determine if there was intent.'" 50 N.Y.2d at 465. Under these circumstances, no *Sandstrom* violation was established.

In *People v. Thomas*, 50 N.Y.2d 467, defendant failed to object to the jury charge concerning intent and, therefore, the issue was not preserved for review by the Court of Appeals. Mr. Bellacosa explained that while normally no exception is necessary to preserve for appellate review a deprivation of a fundamental constitutional right, this rule only applies when the procedure followed at trial was at basic variance with the mandate of law prescribed by Constitution or statute. *People v. Patterson*, 39 N.Y.2d 288, 295. Since *Sandstrom* did not alter the law of New York which always proscribed conclusive presumptions, and since defendant was not claiming that the trial judge specifically charged that the burden of proof shifted to defendant, the defendant's failure to object could not be excused. *People v. Thomas, supra*, at 473.

In conclusion, Mr. Bellacosa discussed *People v. Green*, 50 N.Y.2d 891, as the Court of Appeals' ultimate reaction to *Sandstrom*. Although trial courts were advised to avoid using similar charges in the future, there was no constitutional violation with respect to a charge indicating that there is a "rule of evidence" that a person is presumed to intend the natural consequence of his acts. In *Green*, the court's explanation of this "rule" made it "clear throughout that the jury had a choice and that it was for them to decide from all the circumstances in the case whether the People had met their burden of proving that the defendant actually intended the result." 50 N.Y.2d at 893.

Recent Legislation

I concluded the panel discussion by distributing copies of Penal and Criminal Procedure Law amendments passed by the Legislature during 1980. Due to time limitations, an extensive summary was impossible, but the main provisions of the new "Gun Control" law and the new "Insanity Defense" procedure were highlighted.

SUBSTANTIVE CIVIL LAW

Professor Thomas F. Shea
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Reporter

The 1980 Panel on Substantive Civil Law was chaired by Justice Lyman H. Smith with the able assistance of Justices William P. McCooe and Allen Murray Myers and Professor Milton Gershenson of Brooklyn Law School.

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[5] *Sandstrom v. Montana*. 442 U.S. 510.

[6] In *Sandstrom*, the United States Supreme Court struck down the charge that "the law presumes that a person intends the ordinary consequences of his voluntary acts," as an unconstitutional shifting of the burden of proof in violation of the Fourteenth Amendment's requirement that the State prove every element of a criminal offense beyond a reasonable doubt.

The smorgasbord of subjects discussed this year included the liability of property owners toward a variety of persons on their premises; the liability or immunity of the state in tort actions; comparative negligence, contribution and indemnification; damages in wrongful death actions; "wrongful life" actions for the birth of unwanted or defective children; "equitable distribution" of property in divorce actions; and finally, the New York Court of Appeals' recent "palimony" decision.

Liability Toward Persons on Premises

Justice Lyman Smith began the discussion by reminding the conference of the New York Court of Appeals' landmark 1976 opinion in *Basso v. Miller*, 40 N.Y.2d 233, which had stated that thenceforth the duty of care owed by a landowner to a person on his premises would not vary with that person's status (trespasser, licensee, invitee, etc.) but would be tested instead by a "single duty of reasonable care under the circumstances whereby foreseeability shall be a measure of liability."

As applied to the facts in *Basso*, where an injury had allegedly occurred because of the pitted condition of a private road, "the duty of keeping the roads . . . in repair should not vary with the status of the person who uses them but, rather, with the foreseeability of their use and the possibility of injury resulting therefrom." The reach of *Basso* was illuminated the following year in *Quinlan v. Cecchini*, 41 N.Y.2d 686 (1977), in which a 17-year-old social guest had fallen from a dark basement stairway landing whose door opened inward against the light switch. The First Department had affirmed the trial court's dismissal of the action on the ground that a social guest must take the premises as she finds them. The Court of Appeals reversed, stating that the single standard should have been applied and if it had been the jury might have found that the home owner should reasonably have foreseen that, under the prevailing conditions, it was only a matter of time until someone was injured. More recently, in *Carpino v. Baker*, 427 N.Y.S.2d 225 (1st Dep't 1980), the Appellate Division, citing *Basso*, overturned a jury charge to the effect that a trespasser on railroad tracks would be owed a lower duty of care than others of different status.

Of particular interest in the area of property owners' liability is the Court of Appeals' recent decision in *Nallan v. Helmsley Spear, Inc.*, 50 N.Y.2d 507 (1980), which was released only a few days prior to the conference. In *Nallan* the plaintiff, a labor union officer, had been shot in the back by an unknown assailant at about 7:15 P.M. while signing a guest register in the lobby of a Manhattan office building owned by the defendant. At the time of the shooting the lobby attendant whose job it was to sign in late arriving visitors was absent from the area. Plaintiff Nallan urged two theories of the building owner's liability in negligence despite the fact that the injuries were caused by a third person's deliberate criminal act:

1. By employing the attendant in the first place the defendant had assumed a duty to provide minimal protection for visitors, a duty which it negligently failed to fulfill with foreseeable results in Nallan's case; and
2. Even had no attendant been hired, the defendant nevertheless had a duty to provide reasonable security in the lobby since it was foreseeable from the fact that a substantial number of crimes had occurred in the building that injuries to visitors would occur from the criminal acts of third persons.

A unanimous Court of Appeals agreed that under the facts of the case the latter theory presented a prima facie case of negligence which deserved submission to the jury, saying "[A] rational jury could have found from the history of criminal activity in the other parts of the building that a criminal incident in the lobby was a foreseeable possibility," and that the defendant had failed to "take reasonable precautionary measures to minimize the risk . . ." *Id.* at 520. In passing, the Court noted that Nallan's status as a business invitee or otherwise was not, under *Basso*, determinative of the duty owed him but only one of the many factors to be taken into account in determining whether the risk to him was foreseeable. *Id.* at 518 n. 6.

To the first theory, i.e., that by employing the attendant the defendant had assumed the duty to provide protection, the Court gave more cautious approval. Here the plaintiff could only recover if in hiring the attendant and then failing to assure his presence the defendant had placed Nallan in a more vulnerable position than if no attendant had been employed at all. This might be the case, the Court added, if the plaintiff could show that he knew of the usual presence of the attendant, that he had been lulled into a false sense of security in entering the building and that the defendant could reasonably have foreseen this.

Justice Smith also commented upon another theory of property owners' tort liability, that is, the liability created by a landlord's covenant to make repairs to property occupied by his tenant. In *Putnam v. Stout*, 38 N.Y.2d 607 (1976), the landlord of the Grand Union Company was held liable to a Grand Union customer who had fallen in an unrepaired driveway adjoining the store. Although Grand Union, the tenant-occupant of the premises having control and a right to repair, was clearly liable the Court of Appeals ruled that the landlord, too, was a proper defendant. Announcing a new rule for New York, Judge Gabrielli stated: "We hold therefore, that a landlord may be liable for injuries to persons coming onto his land with the consent of his lessee solely on the basis of his contract or covenant to keep the premises in repair." *Id.* at 618. The Court's rule was based on its perception that public policy is better served by abolishing concepts of privity and allowing direct suit by injured plaintiffs against the covenanting landlord because of the likelihood that his tenant will rely on the covenant and forego repair efforts of his own.

Justice Smith's next category was a most current one. He reported on recent cases[1] which strictly applied a brace of statutes[2] making property owners, including private home owners, absolutely liable for injuries to workers on their premises even where a given worker's own negligence was solely responsible for his injuries and even though he was an independent contractor not subject to the property owner's control. Justice Smith pointed out the harshness of the application of these statutes to private home owners since in most instances the liability imposed is unexpected and uninsured against. Fortunately, a few days after the conference ended the Legislature amended Labor Law sections 240 and 241 to exempt from their coverage "owners of one and two family dwellings who contract for but do not direct or control the work." Ch. 670 (1980) N.Y. Session Laws 1095.

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[1] *Haims v. New York Telephone Co.*, 46 N.Y.2d 132 (1978); *Allen v. Cloutier Constr. Corp.*, 44 N.Y.2d 290 (1978).

Governmental Liability Versus Governmental Immunity

Justice Smith's final topic was the ever-evolving law affecting the dichotomy of governmental liability and governmental immunity. While early decisions granted the state a broad spectrum of immunity from tort claims, the recent trend has been to increase governmental liability. Today it may be more accurate to describe the government as generally liable in tort with only a few exceptions where governmental immunity remains in place. Justice Smith summarized the trend by saying that the state and its municipal subdivisions are only truly immune from suit:

1. Where immunity is provided by statute;
2. Where extremely high-level policy decisions are concerned; and
3. Where judicial action is involved.

As illustrations, Justice Smith reported the following cases:

In *Barr v. County of Albany*, 50 N.Y.2d 247 (1980), the Court of Appeals held that, pursuant to a county law so providing, the county was liable for false arrests committed by its deputy sheriffs even though the New York State Constitution provides that "the county shall never be made responsible for the acts of the sheriff." N.Y. Const., art. XIII, § 13(a). Reading the provision strictly, the Court found that the constitutional immunity applied to sheriffs, not deputy sheriffs, in cases where the county has expressed a willingness to be liable for the acts of the deputies.

In *Selkowitz v. County of Nassau*, 45 N.Y.2d 97 (1978), the county was held liable in negligence for the decision of a police officer to block an escaping driver with his police cruiser, causing the fleeing vehicle to skid into the plaintiff's car which was stopped at a traffic light.

In *Drake v. State of New York*, 416 N.Y.S.2d 734 (Ct. Cl. 1979), Judge Lowery of the Court of Claims found the state liable in tort to a nine year old girl who was shot by Indians occupyng a state forest preserve. The plaintiff and her family were in a car being driven on a county road bisecting the preserve. Although the state police were on notice that the Indians had earlier fired on other motorists, the court did not base its finding of liability on a failure to render police protection, since no special relationship had arisen to negate the general rule that the state has no obligation to protect particular individuals. Rather, the court found that the state had breached its duty as a landowner to use reasonable care to abate a known dangerous condition on its land which affected travelers on the adjacent road. "As a landowner, the State acts in its proprietary capacity rather than its governmental capacity and owes the same duty of care as that of a private individual." *Id.* at 1020.

Similarly, in *Poysa v. State of New York*, 423 N.Y.S.2d 617 (Ct. Cl. 1979), the state was held liable as an abutting landowner for permitting water and gravel to fall upon private property from a negligently designed road drainage ditch. While high-level policy decisions, such as where or whether to build a road, are immune from judicial review, a decision which affects an individual or definable class is not. The major exception to this rule is where the decision is judicial or quasi-judicial in nature, in which case governmental liability is absolute.

In *Fitzgerald v. City of New York*, 426 N.Y.S.2d 368 (Sup. Ct. 1980), the City was held liable for not ordering the evacuation of the Broadway Central Hotel prior to its sudden collapse despite the defense that a municipality is not liable for failure to provide general police or fire protection. The court found that the City owed a special duty to act in this case because it was on notice through its building inspectors that the hotel had developed serious structural defects.

Finally, in *Santangelo v. State of New York*, 426 N.Y.S.2d 931 (Ct. Cl. 1980), the state was ruled not immune from suit for the negligence of a Prisoner Temporary Release Committee since the court found the committee not to be judicial in nature. The court ruled on the merits, however, that the committee was not liable for temporarily releasing a young criminal without supervision because it had no reason to believe that he would commit the kind of criminal act he later did; i.e., rape.

Comparative Negligence, Contribution and Indemnification

Justice Allen Murray Myers began his presentation of this topic by discussing Article 14A of the CPLR which abrogated the rule that a contributorily negligent plaintiff is barred from any recovery and adopted the doctrine of comparative negligence for New York. Enacted in 1975, it applied only prospectively to causes of action accruing on or after September 1, 1975. As a result, a plethora of cases governed by comparative negligence is just now reaching the trial stage. Section 1411 of the CPLR, a pure comparative negligence statute, provides that culpable conduct attributable to the claimant will not absolutely bar his recovery but will proportionally reduce his damages. Pursuant to CPLR § 1412, the burden of pleading and proving this culpable conduct is on the defendant.

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[2] New York Labor Law §§240, 241 (McKinney 1979).

Thus under CPLR § 1411 if a personal injury plaintiff ought to recover damages of $100,000 but his own negligence was responsible for 10% of his injuries, he would recover only $90,000. Even if his own negligence (or other culpable conduct) was responabile for 80% of his injuries he would not be totally barred from recovery but he would recover only $20,000.

Under prior New York law, if a two-car collision were caused 75% by the negligence of Driver A and 25% by the negligence of Driver B, and each sued the other, neither could recover anything because the contributory negligence of each would totally bar his cross-claim. But now, assuming the damages of each to be $100,000, Driver A would be given judgment for $25,000 and Driver B would be given judgment for $75,000. A's $25,000 would be set off and so B would actually receive $50,000 while A would receive nothing. Justice Myers added that according to the Judicial Conference, set-off would not be permitted if the drivers were insured. Driver A would receive $25,000 from B's insurance company and Driver B would obtain $75,000 from A's insurance company.

Next, Justice Myers referred to Article 14 of the CPLR which codified the famous *Dole v. Dow Chemical Co.* decision.[3] Section 1401 of the CPLR permits joint tortfeasors to implead each other and obtain contribution measured by each's proportionate share of the damages caused to the plaintiff. As an example, assume that A and B injured P in the amount of $100,000 and that A caused 75% of the damages and that B caused 25%. If B were sued alone he would have to pay the full $100,000 but could implead or bring a separate action against A and recover $75,000 from A.

Of course, a tortfeasor who settled with P prior to being sued or prior to trial would still be subject to a later claim for contribution. To encourage settlement, the Legislature amended § 15-108 of the General Obligations Law in 1974 in several important particulars. As amended, the section provides:

1. A release or covenant not to sue one joint tortfeasor does not release the others;
2. The release reduces the plaintiff's claim against the remaining tortfeasors by a) the amount of the settlement, or b) the amount of the settling tortfeasor's proportionate share of the total damages, whichever is greater; and
3. The release completely ends the settling tortfeasor's liability for contribution to the non-settling tortfeasors. The settling tortfeasor has bought his peace. On the other hand, he has no right to any contribution from the others.

Accordingly, assume that A and B have injured P, that A settles prior to trial for $25,000 and that P proceeds to trial against B alone. The jury cannot be told either that A has settled or the amount of the settlement (CPLR Rule 4533-b) but is instructed that a non-party may have contributed to P's injuries. If they so find the jury is told to determine the equitable share of the damages attributable to the non-party. If the jury then finds P's total damages to be $100,000 and A's percentage of culpability to be 50%, the trial judge would deduct $50,000 from the verdict and award the remaining $50,000 to P. This is because 50% of the damages is greater than $25,000, the amount of the settlement.

On the other hand, if A had settled for $75,000, that amount would be deducted from the $100,000 verdict because this time the settlement figure would be the greater amount. So in the first hypothetical P would recover a total of $75,000 ($25,000 in settlement from A and $50,000 as a judgment against B). In the second hypothetical P would recover $100,000 ($75,000 in settlement from A and $25,000 as a judgment against B). Note that in the first example B cannot obtain contribution from A even though A settled for less than his equitable share; and in the second case A cannot seek contribution from B even though A settled for more than his equitable share.

If B, the only defendant proceeding to trial, wishes to have A's equitable share deducted from the ultimate verdict, he has the burden of pleading and proving what A's share is.

Justice Myers warned that the jury's determination of the settling defendant's equitable share must be the result of a true adversary proceeding, citing the recent decision in *Meleo v. Rochester Gas & Elec. Corp.*, 423 N.Y.S.2d 343 (4th Dep't 1979). There all of a group of defendants reached a joint pre-trial settlement agreement with the plaintiff on his personal injury claims. A lump sum figure was arrived at but the respective contribution to the pot by each defendant was not determined. Instead, each agreed that his share would be based on a jury finding of his equitable share of the plaintiff's property damage claim which would proceed to trial against all. Thus, if defendant A were found to be responsible for 10% of the plaintiff's property damages, A would pay 10% of the personal injury settlement.

However, all but one of the defendants subsequently settled their property damage claims as well. Nevertheless, they were permitted to proceed to trial along with Dollinger, the non-settling defendant, despite his objection that is would be in the interest of both the plaintiff and the settling defendants to cast all the blame on him. In so doing the settling defendants would minimize or remove their share of the personal injury pot and the plaintiff would insure the smallest deduction from his ultimate property damage verdict against the non-settling defendant.

The Fourth Department found the objection valid and reversed the jury verdict, which, as predicted, had placed all responsibility on the non-settling defendant's shoulders. The court stated:

> "[P]laintiffs and the settling defendants were not only not adversaries (as they appeared) but were

---

[3] 30 N.Y.2d 143 (1972)

> actually allies in pursuing the same end: a verdict against Dollinger.
>
> With the deck thus stacked, the outcome could not have been in doubt." *Id.* at 353.

Justice Myers suggested two possible alternatives to the action of the trial judge in *Meleo:*

1. With the consent of all parties, advise the jury that the settlement had been reached and that the only reason for the participation of the settling defendants is to apportion their share of the personal injury pot; or
2. Refuse to permit the participation of the settling defendants but request a jury finding as to the existence and degree of their responsibility.

Justice Myers next made an important distinction. While a settling tortfeasor need no longer fear a claim for contribution, he may still be liable to another defendant for indemnification. Section 15-108(b) of the General Obligations Law protects a settling tortfeasor from *contribution* claims but has no bearing on his possible obligation to *indemnify.* In contribution the liability is a shared one among tortfeasors who are in pari delicto. Indemnity involves shifting the entire responsibility from one defendant who is without personal fault to another who is at fault. For example, if O owns a car driven on O's business by A, and A negligently injures P, O will be liable for P's damage but can seek full indemnity from A. Thus, if A had settled with P prior to trial for $10,000 and a verdict were rendered against O at trial for $90,000, O could demand complete indemnification in the amount of $90,000 from A. See *Felice v. St. Agnes Hospital,* 411 N.Y.S.2d 901 (2d Dep't 1978).

By the same token, O could not defend against P at trial on the ground that A, who had settled, was 100% responsible and that under § 15-108(b) the verdict against O should be reduce to zero, because the statute does not apply in any way to indemnification situations. *Riviello v. Waldron,* 47 N.Y.2d 297 (1970). For the same reason, a defendant who has settled with a plaintiff is not prevented from seeking indemnification from a third party as he would be prevented by § 15-108(c) from seeking contribution. *McDermott v. City of New York* 50 N.Y.2d 211 (1980).

Justice Myers added that according to *McDermott* the cause of action for indemnification does not accrue until the injured person has been paid by the party seeking indemnity. Therefore, the fact that the statute of limitations for the underlying tort has expired prior to service of the third-party complaint is no defense. The action for indemnity is based on implied or express contract, not on the underlying tort itself.

The final question raised by Justice Myers was the application of the comparative negligence statute to a motor vehicle accident victim's failure to wear his seat belt. In *Spier v. Barker,* 35 N.Y.2d 444 (1974), a case arising prior to the enactment of CPLR §1411, the Court of Appeals held that the failure to wear an available seat belt was not a form of contributory negligence barring recovery since it did not contribute to the occurrence of the accident. However, failure to use a seat belt may constitute a failure to mitigate damages, at least where the severity of the injuries would have been lessened by the belt's being worn. Such a situation must be pleaded and proved by the defendant.

The same result should obtain in a case governed by CPLR § 1411. Now the failure to wear a seat belt may be considered "culpable conduct attributable to the claimant" which, when pleaded and proved by the defendant, proportionally diminishes the plaintiff's recovery. Accordingly, it remains important to request a special finding from the jury as to whether the failure to use a seat belt increased the plaintiff's damages and if so, by what percent. See, e.g., *Caizzo v. Volkswagenwerk, A.G.,* 468 F.Supp. 593 (E.D.N.Y. 1979).

Damages for Wrongful Death, Suits for "Wrongful Life"

Justice William McCooe reported on *Liff v. Schildkrout,* 49 N.Y.2d 622 (1980), in which the Court of Appeals decided that a common law cause of action for loss of consortium arising from the wrongful death of a spouse cannot be maintained and that within the framework of a statutory wrongful death action no damages for loss of consortium may be recovered. Said the Court, "The qualifying phrase 'pecuniary injuries' has been retained since the enactment of the first wrongful death statute in this State . . . and has been consistently construed by the courts as excluding recovery for grief, and loss of society, affection and conjugal fellowship—all elements of the generic phrase 'loss of consortium.' " *Id.* at 633.

Of course, the task of arriving at a determination of even properly recoverable pecuniary injuries is not an easy one where the deaths of children are concerned. In *Woodard v. Pancio,* 410 N.Y.S.2d 454 (4th Dep't 1978) a mother sought pecuniary damages for the death of her 12-year-old daughter. At trial the mother was permitted to prove that her husband died two years after her daughter's death and had the daughter survived him she would have received Social Security benefits as his dependent, which would have increased her monetary worth. The Fourth Department reversed, pointing out that the hypothetical support payments would have been used up as they were received and so would not have enhanced the child's estate.

In *Gary v. Schwartz,* 339 N.Y.S.2d 39 (Sup. Ct. Nassau County 1972), the trial judge refused to charge the formula of probable wages of the child less cost of upkeep until the infant would have reached 21 years because this ordinarily results in a minus figure. He then approved a jury verdict of $100,000 in favor of a widowed mother for the death of her sixteen-year-old son. The court pointed out that the boy was a good student, bound for college and dental school, who "in all likelihood, based upon the evidence adduced at trial, would have faithfully borne the burden of caring for his mother and in aiding his younger brother, if necessary, upon the completion of his education." *Id.* at 49.

Nevertheless, on appeal the Second Department, without a detailed explanation, reduced the $100,000 verdict to $50,000, noting cryptically, "In our opinion, the verdict was excessive to the extent indicated herein." 349 N.Y.S.2d 322 (2d Dep't 1973).

Most recently, in recognition of the inherently inexact nature of the inquiry, the Court of Appeals in *Parilis v. Feinstein*, 49 N.Y.2d 984 (1980), approved a $50,000 verdict for the wrongful death of a 12-year-old boy over the contention that only nominal damages should have been awarded. Said the Court:

> "But in any wrongful death action, especially one involving a child of tender years, the absence of dollars and cents proof of pecuniary loss does not relegate the distributees to recovery of nominal damages only. Rather, since it is often impossible to furnish direct evidence of pecuniary injury, calculation of pecuniary loss is a matter resting squarely within the province of the jury." *Id.* at 985.

Justice McCooe then turned to a recent development in New York law, the concept of "wrongful life." The benchmark case is the Court of Appeals' 1978 decision in *Becker v. Schwartz*, 46 N.Y.2d 401. *Becker* involved two separate malpractice actions arising out of the defendant gynecologists' failure to give proper warnings and medical advice. More specifically, one patient alleged that her doctor failed to warn her that a woman of her age (37) ran an increased risk of giving birth to a defective child, and also failed to advise her of the availability of an amniocentesis test to determine the condition of the unborn child. The child was subsequently born a mongoloid. The other patient alleged that her doctor, who was aware that she had previously given birth to a child afflicted with polycystic kidney disease who had died soon after birth, failed to warn her that the disease is hereditary in nature. She subsequently conceived another child born with the same disease who survived for two and one-half years.

Three separate theories for the recovery of damages were put forward:

1. A claim on behalf of the children for "wrongful life;" i.e., being born physically defective;
2. A claim by the parents for the extraordinary costs of caring for their defective children; and
3. A claim by the parents for their own emotional suffering.

The Court rejected the "wrongful life" theory, pointing out that it was actually founded on the premise that had proper advice been given the infants would never have been born at all. The children were not really seeking to recover for being born in defective condition, because there was no allegation that the doctors had caused their abnormalities. Said the Court, "[W]hether it is better never to have been born at all than to have been born with even gross deficiencies is a mystery more properly left to the philosophers and the theologians." *Id.* at 411. Damages simply could not be ascertained and any injury was not legally cognizable.

The Court sustained the second theory, holding that, as pleaded, the doctors had a duty to the parents to render proper advice and their breach of that duty proximately caused the births and the measurable pecuniary costs of caring for the children.

Finally, the Court rejected the claim for the parents' emotional injuries, stating that as a matter of public policy the attempted measurement of emotional damages under the circumstances would be too speculative, since some parents might experience joy, not sorrow, even at the birth of a defective child. Judge Jasen distinguished *Johnson v. State of New York*, 37 N.Y.2d 378 (1975), on the ground that any daughter notified erroneously that her mother had died would suffer debilitating psychological injury.

Justice McCooe next presented *Vaccaro v. Squibb Corp.*, 422 N.Y.S.2d 679 (1st Dep't 1979), in which the First Department a year later permitted the recovery of damages for a mother's emotional trauma flowing from the birth of her deformed child. Mrs. Vaccaro alleged that her doctor had administered an anti-miscarriage drug to her which caused her child to be born without arms or legs. In permitting recovery the court distinguished *Becker* on the ground that the breach of duty there was based on an error of omission, a failure to warn, while here the error was one of commission, the administration of a dangerous drug. Thus quickly (but debatably) freed of the constraints of *Becker*, the court felt it necessary only to decide if the breach of duty to the mother herself justified recovery for emotional shock arising from injuries to a third person, her child. Relying on *Johnson v. State of New York*, *supra*, the court held that it did. However, the court refused to allow recovery for the father's emotional injuries on the ground that the physician owed no duty to him. The First Department distinguished *Tobin v. Grossman*, 24 N.Y.2d 609 (1969), in which the Court of Appeals had denied recovery for emotional injuries to a mother who had come upon her injuried child after an accident, on the ground that there the defendant driver owed no duty to the absent mother. In *Vaccaro*, the duty to the mother as the doctor's patient was indisputable.

Finally, Justice McCooe pointed out that while New York does not recognize a *child's* action for "wrongful life" when born with defects not caused by the defendant physician *(Becker)*, nor for being born in a healthy but illegitimate state because of negligent custody of his mentally ill mother *(Williams v. State of New York*, 18 N.Y. 2d 481 (1966), a *parent's* action for pecuniary injuries arising from the birth of a healthy but unwanted child has been recognized. In *Ziemba v. Sternberg*, 347 N.Y.S. 2d 265 (4th Dept. 1974) the Fourth Department approved a complaint seeking recovery for the costs of raising a child born because the mother's pregnancy was not diagnosed by the defendant doctor in time for an abortion to be had. A similar result was reached by the Second Department in *Debra S. v. Zapega*, 56 A.D.2d 230 (2d Dep't. 1977). However, the Third Department is apparently in disagreement. See *Sala v. Tomlinson*, 422 N.Y.S. 2d 506 (3d Dep't. 1979).

"Palimony" and Equitable Distribution

Professor Milton Gershenson began this topic by referring to the well-known Lee Marvin decision of the California courts in which a valid cause of action was held to have been stated by Michelle Triola's claim to one-half of film actor Lee Marvin's earnings during the period in which they lived together without benefit of clergy. Three grounds for recovery were asserted by Miss Triola and approved in theory: an express contract of partnership so long as illicit sexual relations were not part of the bargained-for consideration; an implied contract of partnership; and a claim based on quantum meruit.

Professor Gershenson advised that the New York Court of Appeals had approved a variety of "palimony, New York style" in *Marone v. Marone,* 50 N.Y.2d 481 (1980), a case decided only a few weeks prior to the Crotonville conference. There a man and woman who were not married to each other lived together, produced two children and held themselves out as husband and wife. When the relationship soured after some 23 years the woman sued the man, asserting two causes of action:

1. A contract implied in fact pursuant to which she rendered domestic services at his request in the expectation, known to him, that she would receive "full compensation" for them; and
2. An oral express partnership contract in which she and the man agreed that she would render domestic services while he would engage in business activities, "do right by her" and apply the net profits of the partnership to their equal benefit.

The Court of Appeals rejected the implied contract claim as inherently too vague for enforcement and contrary to the public policy expressed by the Legislature's abolition of common law marriages. However, the Court found that the cause of action based on the express contract could proceed to trial, holding that as long as an illicit sexual relationship is not central to the agreement, a contract between unmarried persons living together is as enforceable as though they were not living together; that cohabitation is not a disabling event with respect to contracting power. Although the man's promise to "do right by her" was too vague, the promise to equally divide the profits of the partnership was not. Finally, the statute of frauds was no bar to enforcement of the oral agreement. Although not expressed in the opinion, the Court's probable rationale was that the partnership was terminable at will and therefore able to be performed both within one year and before the end of a lifetime.

Professor Gershenson cautioned that the effect of *Marone* is to place unmarried cohabitors on a better footing than married persons, since even express contracts based on domestic services by a lawful wife have historically been deemed unenforceable. Further, giving legal weight to such an express contract creates a strong incentive to perjury and seems equally at variance with one of the reasons for the abolition of common law marriages; i.e., the fear of the mulcting of the estates of wealthy bachelors. Professor Gershenson suggested that the Legislature may ultimately decide to require such contracts to be in writing in order to be enforceable.

Professor Gershenson next reported on the newly enacted "Equitable Distribution" law (Domestic Relations Law § 236 B) governing the distribution of assets after divorce, separation or annulment. This law went into effect on July 19, 1980 and is not retroactive. Essentially, the new law regards modern marriage as an economic partnership whose assets should be divided "equitably" at its dissolution with subsequent maintenance given only if needed to whichever partner may need it.

The Equitable Distribution law defines "marital property" as "all property acquired by either or both spouses during the marriage . . . regardless of the form in which title is held . . ." (§236 Part B(1)(c)). Thus, even if a home or car which was acquired after the marriage ceremony were placed in the husband's name alone it would still be fully subject to equitable distribution upon divorce. On the other hand, "separate property" would not be subject to division. "Separate property" is property acquired by each spouse prior to the marriage or received during the marriage by gift from others or by inheritance or as compensation for personal injuries. (§236 Part B(1)(d)(1)).

It is important to note that the spouses may opt out of equitable distribution either during or in advance of their marriage by an agreement in writing and subscribed by the parties which was fair and reasonable when made and not unconscionable at the time of the decree. (§236 Part B(3)).

Professor Gershenson stated that the trial judge presiding over contested matrimonial actions under "equitable distribution" must:

1. Determine whether grounds for divorce, annulment, etc. exist;
2. Distribute marital property equitably giving consideration, inter alia, to the value of homemaker services and make non-waivable findings in support of the decision;
(3) Determine whether maintenance, temporary or permanent, is required and make non-waivable findings in support of the decision;
4. Provide for the support of children and make non-waivable findings in support of the decision;
5. Make a "distributive award" in money where marital property cannot be transferred; e.g. where an interest in a law partnership is concerned;
6. Determine the use and occupancy of the marital home without regard to the form of its ownership; and
7. Make an award of counsel fees to either spouse where necessary. (§237).

Professor Gershenson observed that pursuant to Section 464 of the Family Court Act, a Supreme Court Justice before whom a matrimonial action is pending may refer the matter to the Family Court for the purpose of determining support, maintenance or the distribution of marital property. (Family Court Act §464 (McKinney 1980)).

In closing Professor Gershenson said that the experience of sister states under equitable distribution has been that where poor persons are concerned the law has no effect because there is no property to be distributed; middle income spouses are so deterred by the cost of the proceedings that they settle; and wealthy spouses engage in drawn-out litigation made complicated by the detailed findings mandated by the law.

Chapter 6

Legislation and Rule Revision

The Office of Legislative Counsel is responsible for representing the interests of the judicial branch of government in the legislative process. It also acts as a liaison with the Governor's office and executive branch agencies, as well as with bar association committees, judicial associations and other groups, public and private, with respect to legislation affecting the courts and the judicial process.

Counsel's Office, in conjunction with the Chief Administrator's advisory committees on civil, criminal and family law, developed a 51-bill package for introduction at the 1980 legislative session. Thirty-two of these proposals passed the Legislature and were signed into law by the Governor. These measures included legislation providing for the videotaping of conditional examinations of witnesses in criminal actions; improved procedures for the enforcement of orders of protection in family offense proceedings; indictment of juvenile offenders for lesser offenses of the same criminal transaction; the elimination of unnecessary accounting reports by state-funded courts; implementation of thirteen collective bargaining agreements negotiated between the unified court system and employee organizations; and a variety of procedural and substantive changes in the State's civil, criminal and family laws.

Counsel's Office is also responsible for analyzing legislative proposals affecting the administration of the unified court system. Legislative memoranda were filed with appropriate legislative committees on 132 bills during the 1980 Session. Counsel to the Governor was furnished with analyses and recommendations on 245 court-related measures awaiting executive action.

In addition, the legal staff consults frequently with the Governor's office, individual legislators and committee staffs in the development of legislative proposals affecting nearly all aspects of the civil and criminal justice process. Of particular importance since the adoption of the Unified Court Budget Act of 1976 has been the preparation of fiscal estimates for bills which impact upon state-funded courts. These estimates are prepared for Counsel's Office by the staff of the Director of Budget and Finance, frequently in consultation with the Office of Management and Planning.

The following proposals sponsored by the Office of Court Administration were enacted into law in 1980:

Chapter 34. Amends §511(5) of the Judiciary Law to permit a juror to serve on more than one jury during the term for which he has been summoned. (Senate 2424; effective 3/29/80).

Chapter 48. Increases bar examination fees, and establishes new fee for credential review for admission on motion. (Senate 7725-A; effective 4/1/80).

Chapter 96. Amends §712(6) of the General Municipal Law to provide that trials in municipal annexation proceedings be conducted by one justice of the supreme court (elected, retired or acting), and two nonjudicial referees. (Senate 7668-A; effective 6/30/80).

Chapter 101. Amends §1303 of the uniform city, district and justice court acts to permit late filing of jury demands. (Senate 2207; effective 5/5/80).

Chapter 119. Amends CPLR 321(b) to establish motion on notice as the proper procedure for the withdrawal or changing of an attorney of record for a party. (Assembly 9429; effective 1/1/81).

Chapter 132. Amends CPLR 2215 to require a party seeking cross-relief in a responsive motion to endorse "notice of cross-motion" on his pleading. (Assembly 9477; effective 1/1/81).

Chapter 136. Repeals CPL 190.71(a) and adds new §200.20(6) to authorize the indictment of juvenile offenders for lesser offenses of the same criminal transaction. (Assembly 9599; effective 5/20/80).

Chapter 178. Amends section 469(c) of the Family Court Act to extend venue in applications to enforce or modify child support orders. (Assembly 10851; effective 9/1/80).

Chapter 187. Makes permanent the provisions of chapter 699 of the Laws of 1976, which authorizes the use of nonjudicial personnel as uncompensated referees in uncontested matrimonial actions pursuant to CPLR 4312 (3). (Senate 7534; effective 6/2/80).

Chapter 200. Eliminates obsolete reference in section 478 of the Judiciary Law in relation to the practice of law by legal aid organizations. (Senate 7581; effective 6/5/80).

Chapter 208. Amends CPL 310.30 to authorize a court to provide a deliberating jury with the texts of applicable statutes. (Senate 7532; effective 6/9/80).

Chapter 282. Amends the Long Beach City Charter to fix at six years the term of office of the judge of the City

Court. (Assembly 11578; effective 1/1/82).

Chapter 291. Amends article 660 of the CPL to authorize the videotaping of conditional examinations of witnesses in criminal prosecutions. (Assembly 9192-B; effective 6/19/80).

Chapter 292. Eliminates unnecessary accounting reports by state-funded courts, and conforms accounting practices to the provisions of the Unified Court Budget Act. (Senate 5652-A; effective 1/1/80).

Chapter 293. Consolidates the county-level courts in Washington County into a single County Court with Surrogate's and Family Court jurisdiction. (Senate 7790; effective 1/1/80).

Chapter 513. Abolishes the justice court in the city of Yonkers and establishes an additional judge of the City Court. (Senate 9869; effective 6/24/80).

Chapter 530. Amends article 8 of the Family Court Act to clarify the process for enforcement of orders of protection. (Assembly 12123; effective 6/24/80).

Chapter 534. Ratifies and implements OCA's collective bargaining agreements with bookbinders and identification officers negotiating unit. (Senate 6438; effective 6/24/80).

Chapter 535. Ratifies and implements OCA's collective bargaining agreement with NYC law assistants I negotiating unit. (Senate 7754; effective 6/24/80).

Chapter 536. Ratifies and implements OCA's collective bargaining agreement with the NYC law librarians negotiating unit. (Senate 8395-B; effective 6/24/80).

Chapter 537. Ratifies and implements OCA's collective bargaining agreements with negotiating units represented by CSEA. (Senate 9650; effective 6/24/80).

Chapter 538. Amends chapter 4 of the Laws of 1979 with respect to the 1979 collective bargaining agreement with the Rochester negotiating unit. (Senate 9687; effective 6/24/80).

Chapter 539. Ratifies and implements OCA's collective bargaining agreement with Suffolk County negotiating unit. (Senate 9717; effective 6/24/80).

Chapter 540. Ratifies and implements OCA's collective bargaining agreements with the Rockland and Westchester County negotiating units. (Senate 9799; effective 6/24/80).

Chapter 541. Ratifies and implements OCA's collective bargaining agreement with NYC administrative service unit. (Senate 10119; effective 6/24/80).

Chapter 542. Ratifies and implements OCA's collective bargaining agreements with Rochester and Allegany County units. (Senate 10120; effective 6/24/80).

Chapter 543. Ratifies and implements OCA's collective bargaining agreement with the Nassau County unit. (Senate 10123; effective 6/24/80).

Chapter 544. Ratifies and implements OCA's collective bargaining agreement with NYC-wide law assistants negotiating unit. (Senate 10124; effective 6/24/80).

Chapter 545. Ratifies and implements OCA's collective bargaining agreement with the Buffalo negotiating unit. (Senate 10125; effective 6/24/80).

Chapter 546. Amends chapter 308 of the Laws of 1979 in relation to OCA's collective bargaining agreement with employees represented by the Joint Council. (Assembly 10491-A; effective 6/24/80).

Chapter 584. Amends CPL 420.10(2) to require a court to advise a defendant of his rights to be resentenced if the defendant is financially unable to pay a fine. (Senate 9939; effective 7/26/80).

Chapter 881. Increases compensation and expense allowances for state-paid judges of the unified court system; establishes parity in salary for judges temporarily assigned to other courts; and authorizes additional annual compensation for local administrative judges (Senate #18 at Extraordinary Session; effective 1/1/81).

STATE OF NEW YORK

The
Judicial Conference
and the Chief Administrator
of the Courts
of the
State of New York

Report to the 1981 Legislature in Relation to Civil Practice in the Courts

January 22, 1981

Letter of Transmittal

TO: The Legislature of the State of New York

Pursuant to Chapter 156 of the Laws of 1978, the Judicial Conference and the Chief Administrator of the Courts of the State of New York respectfully submit to the 1981 Legislature:

The 19th Annual Report of the Judicial Conference and the Chief Administrator of the Courts to the Legislature, adopted January 22, 1981, which incorporates, as modified, the 18th Annual Report by the Advisory Committee on Civil Practice.

January 22, 1981.

Lawrence H. Cooke, *Chairman*
Francis T. Murphy, Jr.
Milton Mollen
A. Franklin Mahoney
Michael F. Dillon
Donald J. Sullivan
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John H. Pennock
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Chief Administrative Judge
of the Courts

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Introduction

The members of the Committee are David D. Siegel (chairman), William D. Eggers, John T. Frizzell, Hyman W. Gamso, Paul S. Graziano, Robert T. Greig, Raymond D. Hackbarth, James J. Harrington, Edward T. Hart, Richard B. Long, Joseph M. McLaughlin, and John A. Murray. The membership did not change during the past year.

There are three parts to our Report.

Part I briefly discusses the disposition of the Committee's 1980 proposals and submissions.

Part II sets forth the Committee's 1981 recommendations with explanatory notes.

Part III summarizes the Committee's ongoing projects and tentative plans for future study and review.

A large part of the Committee's labors occur during the Legislature's session, when the Committee's meetings are preempted by a parade of bills submitted to it by the Legislature and by the Governor's office for review and comment. No endeavor is made in this report to enumerate those bills.

The Committee wishes to acknowledge the continuous aid and assistance of its Counsel, William A. Bulman, Jr. and John P. Brosnan of the Office of Court Administration.

Part I — Disposition of 1980 Recommendations

1. CPLR 308, CPLR 3215(e), (f).

This bill, which did not pass in 1980, is being resubmitted by the Committee in 1981. It appeared on pages 135-136 of the Second Annual Report of the Chief Administrator of the Courts and, with slight revisions of a grammatical and stylistic nature, reappears on pages 146-147 of this Annual Report, which includes a discussion of its purpose and background.

2. CPLR 321(b).

The change recommended in this amendment, with explanatory background, appears on pages 136-137 of The Second Annual Report of the Chief Administrator of the Courts.

Without duplicating that discussion, we merely note that the gist of the change is in the addition of a paragraph 2 in subdivision (b) of CPLR 321, redesignating the original contents of the subdivision to be paragraph 1. The new paragraph provides a mere motion procedure for a change of attorney when consent of all sides is not forthcoming.

The amendment was adopted in chapter 119 of the Laws of 1980 and took effect January 1, 1981.

3. CPLR 2215.

The change recommended in this provision is designed to clarify the situation in which a party opposing a motion is also seeking affirmative relief, that is, making a cross-motion. It was reported to the Committee that in many instances a demand for affirmative relief did not appear on the face of the opposing papers, but was injected, sometimes only casually, during the course of the recitations of an affidavit. The amendment requires that if the party against whom a motion is made wants affirmative relief, and seeks to submit his request for it at the same time the main motion is returnable, his papers must include a specific notice "of cross-motion".

The amendment and comment on it are set forth on page 137 of The Second Annual Report of The Chief Administrator of the Courts.

The amendment was adopted in chapter 132 of the Laws of 1980 and took effect on January 1, 1981.

4. CPLR 3101(a)(3), 3117(a)(4).

This amendment sought to broaden the category of health care personnel subject to pretrial deposition. It did not pass in 1980 and is being resubmitted in 1981. The amendment and the Committee Comment on it appeared on pages 137-138 of The Second Annual Report of The Chief Administrator of The Courts and reappears on pages 148-149 of this Annual Report.

5. CPLR 5250, 3222(b)(1), 6001.

This bill had only the mechanical function of striking references to the order of arrest, which had been abolished from civil practice in 1979. It did not pass in 1980 and is being resubmitted this year.

The bill and the Comment on it appeared at pages 138-139 of The Second Annual Report of The Chief Administrator of The Courts and reappear on page 150 of this Annual Report.

6. CPLR 5601(a).

This amendment is designed to curtail appeals as of right to the Court of Appeals so as to leave more room on the Court's calendars for appeals by permission. The bill did not pass in 1980 and is being resubmitted in 1981.

The amendment and the Comment on it appeared at pages 139-140 of the Second Annual Report of the Chief Administrator of the Courts and reappear at pages 151-152 of this Annual Report.

7. CPLR 6313.

This amendment was designed to encourage the courts to require prior notice of applications for temporary restraining orders. It did not pass in 1980 and is being resubmitted in 1981.

The amendment and the Comment on it appeared at pages 140-141 of the Second Annual Report of the Chief Administrator of the Courts and reappear at pages 152-153 of this Annual Report.

8. CPLR 7515.

This amendment provides that questions of whether a claim is arbitrable are to be resolved by the court without a jury. It did not pass in 1980 and is being resubmitted in 1981.

The amendment and the Comment on it appeared at page 141 of the Second Annual Report of the Chief Administrator of the Courts and reappear as proposed CPLR 7503(d) at pages 154-155 of this Annual Report.

9. CPLR 7803(4), 7804(g).

The principal purpose of this amendment is to clarify which questions the Supreme Court is to answer in an Article 78 proceeding before transferring the case to the Appellate Division for the application of the substantial evidence standard. This bill did not pass in 1980 and is being resubmitted in 1981.

The amendment and the Comment on it appeared at pages 141-142 of the Second Annual Report of the Chief Administrator of the Courts and reappear on pages 155-156 of this Annual Report.

10. CPLR 8201-8204.

This amendment proposes an across-the-board increase in costs awardable in litigation, to keep at least some pace with inflation. It did not pass in 1980 and is being resubmitted in 1981.

The amendments and the Comment on them appeared at pages 142-144 of the Second Annual Report of the Chief Administrator of the Courts and reappear at pages 156-158 of this Annual Report.

Part II—1981 Recommendations*

1. CPLR 308; 3215(e), (f).

The Committee recommends the repeal of the last paragraph (the paragraph which carries no number) of CPLR 308, treating of additional notice in certain cases before a default judgment is taken, and the transfer of the substance of the provision, expanded and clarified, into CPLR 3215. This recommendation is a slightly revised resubmission of a 1980 proposal.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to additional notice of default judgment in an action arising out of a consumer credit transaction and to repeal certain provisions thereof relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The last unnumbered paragraph of section three hundred eight of the civil practice law and rules, is REPEALED.

§2. Subdivision (e) of section thirty-two hundred fifteen of such law and rules, as amended by chapter three hundred forty-four of the laws of nineteen hundred seventy-seven, is amended to read as follows:

(e) Proof. On any application for judgment by default, the applicant shall file proof of service of the summons and the complaint, or a summons and notice served pursuant to subdivision (b) of rule 305 or subdivision (a) of rule 316, and proof by affidavit made by the party of the facts constituting the claim, the default and the amount due. Where a verified complaint has been served it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party or his attorney. When jurisdiction is based on an attachment of property, the affidavit must state that an order of attachment granted in the action has been levied on the property of the defendant, describe the property and state its value. Proof of mailing the notice required by [section three hundred eight of the civil practice law and rules] *subdivision (f), where applicable,* shall also be filed [where such notice is required].

§3. Subdivision (f) of section thirty-two hundred fifteen of such law and rules, as amended by chapter seven hundred twenty of the laws of nineteen hundred sixty-eight, is amended by adding a new paragraph three to read as follows:

3. (i) When a default judgment based upon non-appearance is sought against a natural person in an action arising out of a consumer credit transaction, as defined in subdivision (f) of section 105, an affidavit shall be submitted that additional notice has been given by or on behalf of the plaintiff at least twenty days before the entry of such judgment, by mailing a copy of the summons by first-class mail to the defendant at his place of residence in an envelope bearing the legend "personal and confidential" and not indicating on the outside of the envelope that the communication is from an attorney

*NOTE: Contained here are only those additions and amendments initiated by the Committee, or acted upon by the Committee after outside request. Committee input lies behind other bills, usually in a consultative capacity, and in several instances the chairman has redrafted bills on procedural subjects at the behest of individual legislators after a review of such bills revealed flaws.

or concerns an alleged debt. In the event such mailing is returned as undeliverable by the post office before the entry of a default judgment, or if the place of residence of the defendant is unknown, a copy of the summons shall then be mailed in the same manner to the defendant at the defendant's place of employment if known; if neither the place of residence nor the place of employment of the defendant is known, then the mailing shall be to the defendant at his last known residence.

(ii) The additional notice may be mailed simultaneously with or after service of the summons on the defendant. An affidavit of mailing pursuant to this paragraph shall be executed by the person mailing the notice and shall be filed with the judgment. Where there has been compliance with the requirements of this paragraph, failure of the defendant to receive the additional notice shall not preclude the entry of default judgment.

(iii) This requirement shall not apply to cases in the small claims part of any court or to any summary proceeding to recover possession of real property or to actions affecting title to real property.

§4. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.*

Comment

This proposal would repeal the unnumbered last paragraph of CPLR 308 and transfer its contents to CPLR 3215(f) as a paragraph 3. The amendment relates to additional notice by mail before a default judgment can be taken against a natural person. Since the purpose of this provision is solely to assure that an additional notice will be given to the defendant before a default judgment may be taken against him, the proper place for it is in the default judgment provision, CPLR 3215. Placed as it was in CPLR 308, the CPLR's basic provision on summons service, it has had to be read innumerable times, unnecessarily, by attorneys interested only in summons service.

The proposal was submitted in 1979 and 1980 and is discussed at greater length on page 144 of the First Annual Report of the Chief Administrator of the Courts. There was no opposition in principle to this proposal at either the 1979 or 1980 legislative sessions. Last minute language changes in 1979 (re-embodied in the 1980 drafts) resulted in a delay in 1979, and in 1980 the amendment, along with several other procedural changes, was not reached on legislative dockets. There was no policy objection voiced to the Committee.

Special Committee Note on Substituted Service Under CPLR 308

The Committee spent much effort in trying to devise an amendment that would respond to the problem of substituted service manifested in the Court of Appeals decision in *Feinstein v. Bergner*, 48 N.Y. 2d 234, 422 N.Y.S. 2d 356 (1979). Service of the summons was tried there under subdivision 4 of CPLR 308, which requires two steps: an affixing to a premises (in *Feinstein*, a residence) presently used by the defendant and a mailing to the defendant's "last known residence". The defendant had actual notice of the suit through the mailing, which his family forwarded to him, but the residence, though still his parents', was no longer the defendant's. He had moved elsewhere. The mailing step, which requires only a "last known" residence, thus sufficed, but the affixing, which requires a present abode or business place, was inadequate. The Court held that this required a dismissal for want of jurisdiction. The original statute of limitations had in the interim expired. It is not clear whether CPLR 205(a) would afford the plaintiff an additional six months for suit after such a dismissal. *See* Siegel, *New York Practice* §74 (Pocket Part, 1979-80).

Several proposed amendments to CPLR 308 were considered by the Committee, to protect a plaintiff from a final dismissal in a case like *Feinstein*. One was the addition of a sentence, to follow immediately after the five numbered paragraphs of CPLR 308, providing that in any instance in which two steps are required for service (this would apply to paragraphs 2 and 4), a showing that the defendant obtained notice through one of the steps within the applicable period of limitation would require the court to disregard a defect with respect to the other. The Committee was hesitant to adopt this approach because it feared that it would invite casualness or carelessness with one of the two steps required for service under paragraphs 2 or 4 of CPLR 308.

Another proposal was to have both of the steps required by those provisions (a delivery and a mailing under paragraph 2, an affixing and a mailing under paragraph 4) carried out at the same place. If, for example, the defendant had a place of business, both the delivery (or affixing) and the mailing could be made to that place, instead of insisting, as the present provisions do, that the mailing be only to a "residence" even if only a "last known" one. It was pointed out that the requirement of two different places for the service in the present paragraphs 2 and 4 of CPLR 308 is designed to increase the likelihood of notice. Permitting both steps to be carried out at the same premises would decrease that likelihood.

The Committee elected to submit no amendment of CPLR 308 this year, in the expectation or at least the hope that *Feinstein* would be noted by the bar and would lead to more careful practices by plaintiffs and their process servers in checking into the status of the defendant's residence at the time of service. This was not a satisfactory approach to all of the Committee, but a majority was of the view that further consideration can be given the matter if the *Feinstein* problem recurs.

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* NOTE: – The last undesignated paragraph of CPLR 308, to be repealed by this bill, relates to the additional notice required to take a default judgment in an action against a natural person based upon nonpayment of a contractual obligation. New proposed paragraph 3 of subdivision (f) of CPLR 3215 governs the additional notice requirement in consumer credit transactions, and supersedes the repealed provision.

2. CPLR 2103(b)(2).

The Committee recommends that the three days by which a responding time is extended when a paper is served by mail be changed to five days.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to service of papers upon an attorney of party

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph two of subdivision (b) of rule twenty-one hundred three of the civil practice law and rules, is amended to read as follows:

2. by mailing the paper to him at the address designated by him for that purpose or, if none is designated, at his last known address; service by mail shall be complete upon deposit of the paper enclosed in a postpaid properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States post office department within the state; where a period of time prescribed by law is measured from the service of a paper and service is by mail, [three] *five* days shall be added to the prescribed period; or

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The traditional three days by which a responding period is extended when the paper to be responded to is served by mail has proved too short in recent years, as the mails have been increasingly delayed. The Committee has been asked on a number of occasions in recent years to make a change in CPLR 2103(b)(2), where the three-day period is provided, and has decided to recommend the modest step of increasing it to five days. There have of course been reported instances in which even five days did not do the job, but these have not been frequent. The relatively rare case in which it takes more than five days for first-class mail to reach its goal should not, in the Committee's view, be made the criterion for amendment. The Committee settled on the five-day suggestion after being apprised of the results of a survey conducted in a large law firm in New York City. Some 90% of mailed papers were received within three days, but 99% were received within five.

If mail service grows worse, further amendment can be made of CPLR 2103(b)(2) at a later time to stretch the extension period further.

3. CPLR 3101(a)(3); 3117(a)(4).

The Committee recommends the amendment of both of these provisions to change the category of persons "authorized to practice medicine" to the broader category of persons "licensed to render health care or diagnostic services." This recommendation is a resubmission of a 1980 proposal.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the deposition of a person licensed to render health care or diagnostic services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph three of subdivision (a) of section thirty-one hundred one of the civil practice law and rules, as amended by chapter two hundred sixty-eight of the laws of nineteen hundred seventy-nine, is hereby amended to read as follows:

(3) a person about to depart from the state, or without the state, or residing at a greater distance from the place of trial than one hundred miles, or so sick or infirm as to afford reasonable grounds of belief that he will not be able to attend the trial, or a person [authorized to practice medicine who has provided medical care or diagnosis to the party demanding disclosure,] *licensed to render health care or diagnostic services and who has provided such care or services to the party demanding disclosure* or who has been retained by [him] *such party* as an expert witness; and

§2. Paragraph four of subdivision (a) of rule 3117 of such law and rules, as amended by chapter two hundred sixty-eight of the laws of nineteen hundred seventy-nine, is hereby amended to read as follows:

4. the deposition of a person [authorized to practice medicine] *licensed to render health care or diagnostic services* may be used by any party without the necessity of showing unavailability or special circumstances, subject to the right of any party to move pursuant to section 3103 to prevent abuse.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law

Comment

Both CPLR 3101(a)(3) and 3117(a)(4) were amended in 1979 to authorize, *inter alia,* the taking and use of a deposition of "a person authorized to practice medicine." Item 3 in Part I of the 1980 Report refers to those 1979 amendments. It was proposed to the Committee in 1980, and the Committee agreed, that the category of persons subject to deposition under those amendments be expanded.

The 1979 language limits the amendments to physicians. The present proposal expands the list to embrace all persons licensed to administer any phase of "health care or diagnostic services." The licensing occurs under the Education Law, and all licensees thereunder who function in any phase of what the courts can reasonably deem the "health" or "diagnostic" realm can be fitted under the expanded deposition category.

The original purpose of these amendments was to facilitate the testimony of doctors at the trial, not only for their own convenience and in recognition of their own important and pressured duties, but for the added convenience of the courts and the litigants as well. Trial attorneys can all attest to the difficulty of coordinating expert testimony in general and medical testimony in particular. The same motivations govern the proposed expansion of these provisions to embrace the whole range of the health establishment.

The deposing is at the option of the party who was treated or diagnosed, or who plans to retain the medical person as an expert. The pretrial deposition option can be foregone; the party may simply call the witness at the trial. Indeed, the deposition can be taken and then not actually used, the party electing instead to have the witness testify live at the trial (the transcript of the deposition thereupon standing by with a potential impeachment use, of course). Though those possibilities exist, the fact that the deposition can be made to stand in for the medical witness at the trial convinces the Committee of the proposal's merit.

4. CPLR 5004.

The Committee recommends that the rate of interest applicable in litigation, including judgments, be raised from six percent to nine percent.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to rate of interest on judgments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty hundred four of the civil practice law and rules, as amended by chapter three hundred fifty-eight of the laws of nineteen hundred seventy-two, is amended to read as follows:

§5004. Rate of interest. Interest shall be at the rate of [six] *nine* per centum per annum, except where otherwise provided by statute.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

Until 1972, CPLR 5004 provided that the "legal rate" of interest would apply to claims, verdicts and judgments in litigation. This had the effect of adopting the prevalent rate of interest applicable on the money market in New York, of course subject to the New York usury maximum. In 1972 this adoptive provision of CPLR 5004 was repealed and a straight six percent rate of interest substituted. *See* the Commentaries on *McKinney's* CPLR 5004. With the increases in market interest in recent years, the six percent for litigated obligations has become too unrealistic and the Committee has been asked, both formally and informally, to consider a change. Deeming this more a matter of substance than procedure, despite the embodiment of the interest rate in CPLR 5004, the Committee has until this year maintained a hands-off attitude, deferring to more appropriate legislative channels for remedial action. This has not been forthcoming. The Committee therefore recommends what it feels to be a step toward remedying the discrepancy. The Committee recommends an increase from six percent to nine percent. Though this is a 50 percent increase, it achieves that proportional size only because of the low figure of six percent that has been retained for almost a decade in disregard of prevalent economic conditions.

The Committee has had reported to it many examples of a party's litigation conduct apparently motivated by the low interest rate contained in CPLR 5004. When the sums involved in the case are large, it is self-evident that the longer the defendant delays the case—assuming that the plaintiff will ultimately prevail—the longer the defendant will be able to keep money at a six percent rate that he would have to pay two, three or even four times more for on the money market. Instances have been reported to us of patently unmeritorious appeals taken in commercial cases merely to obtain the delay, and of tort appeals, where possible in bifurcated trials, of liability findings just to postpone the trial of the damages issue. In wrongful death cases, for similar reasons, insurers have incentive to delay payment and, eschewing settlement, to force cases to trial. In death cases interest runs from the time of death. In personal injury cases, no interest runs at all until verdict, and takes up at only six percent at that time.

The Committee is concerned that the CPLR 5004 interest rate has now become so low, as against the market, that much time is being spent, especially by more sophisticated categories of potential judgment debtors, in an effort to exploit it. This undermines the system. Arguments are made to reinstate the market rate under CPLR 5004. These arguments have merit. The Committee believes that the subject should be studied more intensely by the Legislature, through channels equipped to examine the adverse impact a low litigation interest rate may be having. Indeed, the interest limitations on lending institutions, which are substantially above the present CPLR 5004 rate, occasioned a special bill from an extraordinary session of the Legislature (L.1980, c.883), lest much banking business leave the state. Consumer loans were the principal subject. Interest rates on them were stated in the Governor's message accompanying the bill to be both "inflexible" and "in most cases, substantially below prevailing market rates." They were still higher by far to begin with than the six percent CPLR 5004 rate.

5. CPLR 5250; 3222(b)(1); 6001. *

The Committee proposes to repeal CPLR 5250, to abolish the remedy of arrest for which it provides in connection with the enforcement of money judgments, and to amend the other two provisions to strike their reference to the order of civil arrest, a remedy abolished from civil practice in 1979.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to arrest

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty-two hundred fifty of the civil practice law and rules, is REPEALED.

§2. Paragraph one of subdivision (b) of rule thirty-two hundred twenty-two of such law and rules is amended to read as follows:

1. an order of [arrest or] attachment or a preliminary injunction shall not be granted;

§3. Section sixty hundred one of such law and rules is amended to read as follows:

§6001. Kinds of provisional remedies; when remedy available to defendant. The provisional remedies are [arrest,] attachment, injunction, receivership and notice of pendency. On a motion for a provisional remedy, the plaintiff shall state whether any other provisional remedy has been secured or sought in the same action against the same defendant, and the court may require the plaintiff to elect between those remedies to which he would otherwise be entitled; for this purpose, seizure of a chattel in an action to recover a chattel is a provisional remedy. A cause of action contained in a counterclaim or a cross-claim, and a judgment demanded thereon, shall entitle the defendant to the same provisional remedies to which he would be entitled if he were the plaintiff, the party against whom the judgment is demanded were the defendant and the cause of action were contained in a complaint.

§4. This act shall take effect immediately.

Comment

The Legislature abolished the provisional remedy of civil arrest in 1979. This it did by repealing Article 61 of the CPLR, which supplied the remedy.

Since the remedy of civil arrest in connection with the enforcement of a money judgment, which is found in CPLR 5250, is analogous to the abolished provisional remedy, similar policy considerations may be cited to support repeal of the CPLR 5250 arrest. Moreover, its repeal would probably go unnoticed, since a CPLR 5250 arrest is rarely if ever sought, much less granted. A perusal of CPLR 5250 in the McKinney's volume reveals no activity at all on the provision.

The amendments of CPLR 3222(b)(1) and CPLR 6001 are merely to recognize the 1979 repeal of the provisional remedy of civil arrest. CPLR 3222(b)(1), governing the submission on agreed facts (a procedure which dispenses with summons service and other adversary proceedings), makes certain provisional remedies unavailable. Arrest was among them, but since arrest no longer exists as a remedy, the reference to it should be eliminated.

CPLR 6001 lists the official provisional remedies. It still refers to arrest. The amendment would strike the reference.

6. CPLR 5519(a)(1).

The Committee proposes to amend CPLR 5519(a)(1) so as to keep in effect the automatic stay that governmental units get upon appealing an adverse judgment or order for the payment of money or the delivery of property, but to limit the automatic stay to only 15 days in other cases.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the automatic stay of enforcement of judgments or orders against the state or political subdivisions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph one of subdivision (a) of section fifty-five hundred nineteen of the civil practice law and rules, as amended by chapter seven hundred forty-four of the laws of nineteen hundred sixty-five, is amended to read as follows:

1. the appellant or moving party is the state or any political subdivision of the state or any officer or agency of the state or of any political subdivision of the state; *provided that where the judgment or order does not direct the payment of a sum of money, the assignment or delivery of personal property, or the conveyance of real property, the stay provided for by this paragraph shall expire at the end of 15 days*; or

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

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* NOTE: CPLR 5250, which this amendment proposes to repeal, relates to the civil arrest of judgment debtors.

Comment

This amendment concerns a stay of a judgment or order upon an appeal by the state or one of the political subdivisions of the state. There is an automatic stay of the judgment or order upon all such appeals at the present time. The Committee proposes to continue this automatic stay when the judgment or order is for the payment of money or the delivery or conveyance of property, but to limit it to only 15 days in other cases, thus putting the governmental unit to the burden of a motion (to extend the stay beyond 15 days) only in these other cases.

The "other cases" that the amendment intends to reach are notably those involving the revocation of a license. The situation frequently called to the Committee's attention is where (for example) a governmental unit has revoked a license, but, in an Article 78 proceeding brought by the licensee to review the determination, the licensee has won, and the license has been ordered reinstated. Upon appeal from Special Term's reinstatement order, the automatic provision of the present CPLR 5519(a)(1) stays the reinstatement order and thus keeps the license suspended until the perfection and termination of the appeal. That period can be a long one, and the licensee is deprived of his license during it despite the fact that the only judicial determination of his entitlement so far has been in his favor. The presumption of validity of Special Term's reinstatement order is lost, in other words, through the automatic operation of the stay provision of CPLR 5519(a)(1). Under the Committee's proposed amendment, an automatic stay would result in a license case, but would last for only 15 days. This would give the governmental unit an opportunity, after the Special Term decision against it, to get its papers together for a motion to continue the stay beyond the 15 days. This enables the licensee to have the court determine whether or not, during the pendency of the appeal, the license is to remain in effect.

This is approximately the way things were prior to 1965. The automatic stay of CPLR 5519(a)(1) applied only to money and property cases. A 1965 amendment struck that limitation and thus applied CPLR 5519(a)(1) to all, including license, cases. Experience since then has convinced the Committee that while an automatic stay through all appellate proceedings is appropriate when the state or one of its subdivisions is the appellant in money and property cases, a court determination of whether there should be a stay should be required in other cases. Hence, in these other cases, an automatic stay of only 15 days is granted; only the court can extend it beyond.

7. CPLR 5601(a).

The Committee recommends that the jurisdiction of the Court of Appeals in instances of appeals taken as of right be curtailed, thus enabling the Court to take more appeals by permission, a statistical study of the Court having demonstrated that the percentage of reversals (which confirm the merit of the appeal) in cases appealed by leave is dramatically higher than in cases appealed of right.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to appeals to the court of appeals as of right

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section fifty-six hundred one of the civil practice law and rules, as amended by chapter ninety-five of the laws of nineteen hundred seventy-three, is amended to read as follows:

(a) [Dissent, reversal or modification] *Dissent by two justices.* An appeal may be taken to the court of appeals as of right in an action originating in the supreme court, a county court, a surrogate's court, the family court, the court of claims or an administrative agency; from an order of the appellate division which finally determines the action, where [(i) there is a] *two justices* dissent on a question of law in favor of the party taking such appeal [, or (ii) such order directs a reversal of the judgment or order appealed from, or (iii) such order directs a modification thereof in a substantial respect, which is within the power of the court of appeals to review on such appeal, and the party taking the appeal is aggrieved by the modification].

§2. This act shall apply to every notice of appeal to the court of appeals otherwise timely served within the particular action or proceeding, which is served on or after the effective date of this act.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This amendment is sought by the Court of Appeals and is recommended by the Office of Court Administration and the Advisory Committee on Civil Practice.

The amendment would narrow the existing bases for appeal as of right only under subdivision (a) of section 5601 of the CPLR and indirectly under subdivision (d) of that section. Thus, appeals as of right from final orders involving reversals, modifications and dissents are preserved, except that in all those categories there would have to be at least two dissenting votes at the Appellate Division. Of course, all such matters not appealable as of right would be subject to appeal by permission of either the Appellate Division or the Court of Appeals (CPLR 5602).

This change is needed to permit the Court of Appeals to deal more effectively with its burgeoning workload, to ensure the currency of its calendar, to permit more time and opportunity for deliberation and for writing opinions on those appeals which are highly significant and to grant more applications for leave to appeal in cases of truly statewide importance and significance.

In the five-year period between 1973 and 1978 the total caseload of the Court of Appeals increased 57.3 percent. Total cases disposed of in 1973 were 1,947; the total for 1978 was 3,040.

In 1978, of the total number of civil appeals heard by the Court of Appeals, 312 came to the Court as of right solely because of a reversal or modification by an Appellate Division or because of the dissent of a single justice in the Appellate Division, 29 cases involved an appeal as of right based upon a constitutional issue and only 106 cases were heard by the Court of Appeals by grant of a motion for permission.

The statistical analysis of the work of the Court indicates overwhelmingly that the general quality of the appeals that reach the Court of Appeals by leave are higher than the appeals mandated as of right. For example, the Court of Appeals affirmed 71 percent of the orders appealed as of right under provisions of CPLR 5601(a), and 82 percent of those appealed as of right because of a constitutional question. In contrast, the Court affirmed only 51 percent of orders appealed by leave of the Court of Appeals and 58 percent of orders appealed by leave of the Appellate Division. This clearly indicates the urgency of enabling the Court of Appeals to grant leave to appeal in more deserving civil cases without being overwhelmed by numerous less meritorious appeals as of right. Such determination and control of its own docket is, by and large, the national rule for courts of last resort and there is no sound reason for New York to be a minority exception to this sound jurisprudential practice.

Deeper analysis of the appeals heard by the Court of Appeals indicates that by volume, the least meritorious appeals as of right, other than those where a constitutional question is raised, are those involving reversals and modifications. In cases where the Appellate Division reversed a trial court, the Court of Appeals affirmed 75 percent of the time in 1978. This is understandable because often the Appellate Division unanimously corrects a clear error in law by the trial court and there is no point in mandating further appeal. Yet, under present law, the Court of Appeals is required to consider such matters. Thus, errors by the trial court, fully remedied by the Appellate Division, are allowed to dominate the calendar of the State's highest court. The Court of Appeals in 1978 also affirmed 70 percent of all cases where the Appellate Division modified an order or judgment of a trial court.

Appeals as of right based on the presence of a dissent are of a lower quality, by volume, than appeals by leave. The Court of Appeals in 1978, for example, affirmed 66 percent of appeals as of right based on dissent in the Appellate Division as against the 51 percent and 58 percent of appeals taken by leave in that year. The solution incorporated in this amendment is to retain dissent as a basis for appeals as of right, but to require the dissent of two justices rather than only one as a basis for a mandatory appeal, whether the order is one of reversal, modification or affirmance.

The sound administration of the courts as well as the interests of the bar and the public require that the obligatory jurisdiction of the Court of Appeals be curtailed so that its permissive jurisdiction may be extended.

8. CPLR 6313.

The Committee recommends that CPLR 6313, governing the temporary restraining order, be amended to require that if no notice is directed, the court state on the face of the order why it is being dispensed with, thus encouraging the procedure of requiring notice even of a temporary restraining order except in exigent circumstances.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to notice of motion for a temporary restraining order

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section sixty-three hundred thirteen of the civil practice law and rules, as amended by chapter three hundred eighteen of the laws of nineteen hundred sixty-two, is amended to read as follows:

(a) Generally. If, on a motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order may be granted without notice. *If the circumstances are such that notice, even if only by telephone or other informal means, is practicable and would not defeat the purpose of the order, the court shall direct that it be given; and if the court finds otherwise, it shall state in the order the reasons for dispensing with notice.* Upon granting a temporary restraining order, the court shall set the hearing for the preliminary injunction at the earliest possible time. No temporary restraining order may be granted in an action arising out of a labor dispute as defined in section eight hundred seven of the labor law, nor against a public officer, board or municipal corporation of the state to restrain the performance of statutory duties. This section shall not apply to the attorney general when an application is made by the [attorney-general] *attorney general* in a proceeding under article twenty-three-a of the general business law.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee was asked to encourage judges to require notice of a temporary restraining order (TRO) in instances where it is feasible to have such notice given. The matter came before the Committee prior to the 1979 Report but was put over until 1980 to obtain the advice and experience of a broad sampling of Supreme Court justices. (Since the TRO involves equity jurisdiction, it is almost exclusively a product of Supreme Court practice.)

To obtain this sampling, the matter was placed on the agenda of the 1979 annual meeting of the state's trial judges, the so-called "Crotonville Conference," where the judges related a range of experiences with the TRO.

The primary aim of the TRO is to retain a status quo while an application is brought on for a preliminary injunction. While that injunction (if granted) covers the whole pendency of the action until final judgment, the TRO covers only the period for bringing on the preliminary injunction hearing. Each instance of an application for a TRO is therefore one in which—at least to hear the applicant (assume it is the plaintiff) tell it—the urgency is too great to admit of any notice at all to the other side (assume it is the defendant). The experience of a majority of the judges suggests that while there is occasionally a showing of an exigency sufficient to dispense with notice of the TRO, many of the cases involve no such urgency and can well stand the giving of notice, however informal, of the TRO. The Committee is of the view that if the giving of notice is feasible and appropriate, then as a matter of policy it should be given.

The amendment of CPLR 6313 therefore provides that if the giving of notice is practicable, it should be ordered. The court can require the giving of notice in whatever form it chooses. It is common among a number of judges now, for example, even under the present version of CPLR 6313, to require the applicant to give telephone notice to the other side, the judge often permitting his own phone in chambers to be used for the purpose.

A ground for dispensing with notice is where there is a significant chance that the other side, upon being notified of the TRO application, will forthwith do the very thing the whole procedure is designed to prevent, such as by immediately removing from the state a chattel which is at the crux of the action. The court must be convinced that such a doing is not just the applicant's fancy, but a real possibility, before dispensing with notice, and it will of course be incumbent on the applicant to do the convincing in affidavits accompanying the initial application for the TRO (whose usual context is an order to show cause, bringing on the preliminary injunction application).

If for any reason notice of the TRO is dispensed with, the court under this amendment must state on the face of the TRO "the reasons for dispensing with notice." It is the Committee's hope that by so requiring, it will be each judge's practice to make the giving of TRO notice the norm and dispensing with it the exception.

9. CPLR 7502(c).

The Committee proposes to add a subdivision to CPLR 7502 to authorize the court to entertain, in conjunction with an arbitration, the provisional remedies of attachment and preliminary injunction.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to use of provisional remedies in arbitration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred two is amended to add a new subdivision (c) thereto, to read as follows:

(c) Provisional remedies. The supreme court in the county in which an arbitration is pending, or, if not yet commenced, then in a county specified in subdivision (a), may entertain an application for a preliminary injunction or for an order of attachment in connection with an arbitrable controversy, but only upon the ground that the award to which the applicant may be entitled may be rendered ineffectual without such provisional relief. The provisions of articles 62 and 63 of this act shall apply to the application, including those relating to undertakings and to the time for commencement of the action (arbitration shall be deemed an action for this purpose) if the application is made before commencement, except that the sole ground for the granting of the remedy shall be as stated above. The form of the application shall be as provided in subdivision (a). Once an arbitrator has been duly appointed, his views with respect to the granting or continuance of the remedy, to the extent he wishes to state them, may be considered by the court and may be presented in the form of an affidavit either as part of or in opposition to an application.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The need often arises to protect a status quo while an arbitration is pending, just as it does when a litigation is pending. The availability of the provisional remedies in conjunction with an arbitration has been a source of dispute under the CPLR, where arbitration is not considered a "special proceeding." It was so considered under the Civil Practice Act (§1459), which the CPLR superseded in 1963, and hence, there was less difficulty in permitting the use of provisional remedies in connection with arbitrations. As special proceedings, they were for this purpose a category of court proceedings.

The Committee has been considering a proposal to authorize the court to entertain applications for the remedies of attachment (CPLR Article 62) and preliminary injunction (Article 63) when shown to be needed to preserve the efficacy of a potential arbitral award. The time seems ripe to present this proposal to the Legislature. A recent report by a Subcommittee on Provisional Remedies of the Committee on Arbitration of the Association of the Bar of the City of New York includes a survey of the area and recommends legislation to add the provisional remedy authorization to both federal and state practice.

The application is made to the Supreme Court, and one of the matters the Committee draft addresses is venue. If the arbitration is pending when the application is made, it is made in the county of the arbitration's pendency. If the arbitration has not yet been commenced, the application is made in a county specified in the existing subdivision (a) of CPLR 7502.

The only remedies made available are attachment and preliminary injunction (which would of course include the temporary restraining order). The receivership (Article 64) and the lis pendens (Article 65) are not made available. The sole ground for the grant of either the attachment or injunction, moreover, is that the award the applicant is seeking in arbitration "may be rendered ineffectual" without it.

A special provision has been included to invite the reflections of the arbitrator himself on the subject of the granting or continuance of the remedy.

When an attachment is sought before an action is commenced, there is a requirement that the action be commenced within 60 days after the attachment is granted. CPLR 6213. The same requirement would apply to the commencement of the arbitration if the granting of the attachment precedes it. Also retained are the bonding requirements of Articles 62 and 63, so that a party obtaining the remedy in conjunction with an arbitration not be relieved of any liabilities that might apply in a litigated case.

Background and case illustrations in support of the need for this amendment may be found in the cited report of the Subcommittee of the Association of the Bar's Arbitration Committee.

10. CPLR 7503(d).

The Committee recommends that a statute be enacted directing that the trial of issues of fact arising on an application to compel or stay an arbitration be without a jury.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the trial of issues of fact in respect to arbitration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred three of the civil practice law and rules, as amended by chapter three hundred eighty-eight of the laws of nineteen hundred sixty-four, is amended by adding thereto a new subdivision, to be subdivision (d), to read as follows:

(d) Issues of fact. Issues of fact arising on an application under this section shall be tried by the court without a jury.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee makes this recommendation unanimously, but with decidedly mixed emotions.

The purpose of arbitration is to facilitate dispute resolution. It is not consistent with that purpose to permit one party to an ostensibly arbitrable dispute to delay the arbitral process by interposing objections to arbitration and then, if issues of fact are presented about whether an agreement to arbitrate was made, to insist that they be tried by jury. Additionally, of course, is the factor of the over-burdened calendars of the courts, which are hardly helped by having to impanel juries to determine arbitrability questions. The Committee has often been asked to recommend a statute that would dispense with trial by jury of such issues.

The probelms is one of constitutionality. Some of the Committee have serious reservations about whether a statute can dispense with a jury in trying such issues. They reason that if, absent any commitment to arbitrate, an ordinary action involving the dispute would be triable by jury, such as where it involves money only, a genuine issue as to whether the dispute is to be taken away from the courts would also require trial by jury. An arbitrability issue, concludes this argument, is just such an issue.

An opposing view is that if a party has affixed his signature to an agreement containing an arbitration clause, he has established link enough with an obligation to arbitrate to permit trial of the issue by the court without a jury.

Ideal would be an amendment of the state constitution to dispense expressly with trial by jury in such instances. But the amendment process is a cumbersome one. The Committee takes the position that the matter should not be pressed to the constitutional-amendment point until the Court of Appeals has at least had a chance to address the issue whether, under present law, the arbitrability question is triable by jury. While a statute dispensing with trial by jury of the question is not indispensable to set up a court test, it would surely be helpful. Hence, the Committee recommends the adoption of CPLR 7503(d), dispensing with trial by jury of the threshold question of arbitrability and other issues of fact and permitting these questions to be heard and resolved by the court.

Because of the Committee's reservations about constitutionality, a report addressed to the subject was undertaken by a Yale law student under the direction of Professor Geoffrey C. Hazard, Jr. The report, which appears at page 314 of the Judicial Conference's 1978 Annual Report, concludes that the Constitution does not bar the Legislature from terminating the right to trial by jury of the arbitrability issue. The matter remains in doubt, and its submission to the courts is deemed the most appropriate step.

If the courts determine that trial by jury is required, and set CPLR 7503(d) aside as unconstitutional, the Committee will have performed what it considers to be its duty to help set the stage for the test.

11. CPLR 7803(4); 7804(g).

The Committee recommends that CPLR 7803(4) be amended to clarify that the substantial evidence test applies only to those hearings which require testimony to be under oath, and that CPLR 7804(g) be amended to clarify which issues the Supreme Court is to decide at Special Term before directing that a case involving the substantial evidence test be transferred to an Appellate Division for determination.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to hearing and determination, and transfer to appellate division, of article seventy-eight proceeding

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph four of section seventy-eight hundred three of the civil practice law and rules is amended to read as follows:

4. whether a determination made as a result of a hearing held, and at which evidence was taken *under oath,* pursuant to direction by law is, on the entire record, supported by substantial evidence.

§2. Subdivision (g) of section seventy-eight hundred four of such law and rules is amended to read as follows:

(g) Hearing and determination; transfer to appellate division. Where [an] *the substantial evidence* issue specified in question four of section 7803 is not raised, the court in which the proceeding is commenced shall itself dispose of the issues in the proceeding. Where such an issue is raised, the court shall *first dispose of such other objections as could terminate the proceeding without reaching the substantial evidence issue. If the determination of the other objections does not terminate the proceeding, the court shall* make an order directing that [the proceeding] *it* be transferred for disposition to a term of the appellate division held within the judicial department embracing the county in which the proceeding was commenced [; the court may, however, itself pass on objections in point of law]. When the proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issues in the proceeding, or, if the papers are insufficient, it may remit the proceeding.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

CPLR 7804(g), which requires that an Article 78 proceeding involving the substantial evidence review criterion be transferred by the Supreme Court, where the proceeding is begun, to the Appellate Division, provides also that the Supreme Court "may . . . itself pass on objections in point of law" before making the transfer. Just what questions are to be passed upon under this ambiguous criterion has always been a source of disagreement.

The soundest conclusion the Committee discerns from among the several that the provision can give rise to is that the Supreme Court should pass only on those objections that have the potential for determining the case without reaching the substantial evidence question, i.e., objections that can dismiss the action and thus obviate a transfer. The matter had the attention of the annual Crotonville Conference of Trial Judges in 1979, and the consensus of the judges was in harmony with the above conclusion.

Accordingly, the Committee recommends that Special Term pass only on such objections as could result in dismissal. Examples would be want of jurisdiction, statute of limitations, res judicata and the like. If any such objection succeeds, the case is dismissed and a transfer (and a reaching of the substantial evidence issue) is made unnecessary. If it fails, the case can then be transferred up for determination of the substantial evidence issue by the Appellate Division, along with such other objections as did not have the potential for terminating the case, e.g., questions of admissibility of evidence by the agency, the following of proper administrative procedure, etc.

An alternative the Committee rejected was a repeal of CPLR 7804(g), so as to give even the substantial evidence question to the Supreme Court, with the Appellate Division to get it, if at all, only later on as part of an ordinary appeal. Since the substantial evidence rule is an adjunct of the old writ of certiorari, which applied only when it was sought to review a determination following a full-fledged "quasi-judicial" hearing (what the State Administrative Procedure Act denominates an "adjudicatory proceeding"), and since this phase of Article 78 carries forth that function, the procedure of leaving initial judicial review of the substantial evidence question to the Appellate Division should be retained.

The premise underlying this procedure is that there has already been a plenary hearing before the agency, giving rise to a full record, and that a "substantial evidence" review of that record should go only to an appellate-level court. The Committee is of the view that the reason for "filtering" it through nisi prius, as CPLR 7804(g) does, is only to enable that court to determine other issues that may be raised and that can obviate disposition of the substantial evidence issue.

Consistent with that view, the Committee also proposes a brief clarifying amendment of CPLR 7803(4), which lists the substantial evidence question as one appropriate for Article 78 to raise. The substantial evidence standard applies when there has been a hearing, and this has always meant an evidentiary hearing of the quasi-judicial kind referred to above. To clarify that it does not apply when the "hearing" is of a different kind, such as an open "hearing" conducted by diverse municipal governing bodies in carrying out a myriad of functions, but which involves no sworn testimony, the Committee suggests the amendment of CPLR 7803(4) to require that the evidence taken at such hearing be under oath in order for the hearing to produce a record qualifying for "substantial evidence" treatment. In this respect the addition of the words "under oath," the only addition recommended for CPLR 7803(4), is merely a clarification.

An administrative determination not qualifying for the substantial evidence test under CPLR 7803(4) still gets the benefit of the expeditious procedures of Article 78 of the CPLR, but the test applied to it comes from one of the prior paragraphs of CPLR 7803, such as the "arbitrary and capricious" test of CPLR 7803(3).

12. CPLR 8001(a).

The Committee proposes to raise the daily fee for a subpoenaed witness from $2 to $15, and the mileage fee payable to him from eight to 21 cents.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to fees of witnesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section eighty hundred one of the civil practice law and rules, is amended to read as follows:

(a) Persons subpoenaed. Any person whose attendance is compelled by a subpoena, whether or not actual testimony is taken, shall receive for each day's attendance [two] *fifteen* dollars for attendance fees and [eight] *twenty-one* cents as travel expenses for each mile to the place of attendance from the place where he was served, and return. There shall be no mileage fee for travel wholly within a city.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This is self-evidently an inflation measure, and in the Committee's judgment a modest one. The witness fee of $2 has for many years been inadequate, and the figure of $15 to which the Committee proposes to raise it is at least a step toward reality. Travel expenses have increased beyond the eight-to-21 cent jump here proposed, and this is true regardless of the mode of transportation used. The provision that dispenses with the mileage item when the travel is entirely within a city is not affected. The theory behind that exception is that public transportation is available at a modest figure, but that proposition will also bear monitoring.

The increase being adopted here for the trial subpoena will apply to the pretrial deposition subpoena as well. An additional $3 remains applicable to that subpoena under subdivision (b) of CPLR 8001.

Also, through the adoptive provision of §610 of the Criminal Procedure Law, these increases in fees and mileage would apply in criminal as well as civil actions.

13. CPLR 8201-8204.

The Committee recommends the amendment of this quartet of sections to increase litigation costs to recognize the accelerated inflation of recent years.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to amount of costs in an action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-two hundred one of the civil practice law and rules, as amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8201. Amount of costs in an action. Costs awarded in an action shall be in the amount of:

1. [fifty] *two hundred dollars* [in the counties within the city of New York, and twenty-five dollars in all other counties,] for all proceedings before a note of issue is filed; plus

2. [one] *two* hundred dollars [in the counties within the city of New York, and fifty dollars in all other counties,] for all proceedings after a note of issue is filed and before trial; plus

3. [one] *three* hundred [fifty] dollars [in the counties within the city of New York, and seventy-five dollars in all other counties,] for each trial, inquest or assessment of damages.

§2. Section eighty-two hundred two of such law and rules, as amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8202. Amount of costs on motion. Costs awarded on a motion shall be in an amount fixed by the court, not exceeding [forty] *one hundred* dollars [in counties within the city of New York, and twenty dollars in all other counties].

§3. Subdivision (a) of section eighty-two hundred three of such law and rules, as so designated by chapter three hundred ninety-one of the laws of nineteen hundred seventy-two and as amended by chapter seven hundred thirty-five of nineteen hundred seventy-two, is amended to read as follows:

(a) Unless the court awards a lesser amount, costs awarded on an appeal to the appellate division shall be in the amount of [: 1. twenty-five dollars for all proceedings before argument; plus 2. fifty dollars for argument] *two hundred fifty dollars.*

§4. Section eighty-two hundred four of such law and rules, as amended by chapter seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8204. Amount of costs on appeal to court of appeals. Unless the court awards a lesser amount, costs awarded on an appeal to the court of appeals shall be in the amount of [: 1. fifty dollars for all proceedings before argument; plus 2. seventy-five dollars for argument] *five hundred dollars.*

§5. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law; provided, however, that its provisions shall apply only to bills of costs entered on or after such date, regardless of when the claim accrued or the action was commenced.

Comment

What few adjustments have been made in the CPLR costs provisions have been slow and small. Costs have never been commensurate with the actual expense of litigating an action, but as the dollar has declined in value at an accelerated pace over recent years, the amounts provided have perhaps lost what little significance they had.

The Committee proposes to make an across-the-board increase in the amount of costs awardable for the various stages of an action (CPLR 8201), for a motion (CPLR 8202) and for appeals to the Appellate Division 8203(a)) and the Court of Appeals (CPLR 8204).

With respect to costs awardable in an action, a distinction is presently made between New York City and elsewhere. The costs are awardable in stages under CPLR 8201, but the sums awardable in New York City counties are double those awardable in the other 57 counties. The proposal removes this distinction, so that the sums suggested would apply in all counties.

Costs awardable for proceedings before the filing of a note of issue are presently $50 in New York City and $25 elsewhere. The amendment of CPLR 8201(1) would change this to a uniform $200. This may appear at first blush to be at least a quadrupling of the present figure. It is not, for this reason: this pre-note of issue segment has until recent years involved little preparation. The practice was to file the note of issue early in the case, before the trouble and expense of disclosure and other pretrial proceedings were undertaken. In the present era of the statement of readiness, however, which must accompany the note of issue, this first stage has become a busy and expensive one. This fact has never been recognized in a costs adjustment. The proposal accords it that recognition.

The second stage, which covers the period after the filing of the note of issue but before an actual trial, presently invokes costs of $100 in New York City and $50 elsewhere; a uniform $200 is substituted for statewide application under the proposed amendment of CPLR 8201(2). Steps one and two in litigation will now each carry costs of $200.

The trial itself, should the case get that far, involves costs of $150 in New York City and $75 elsewhere at present. The proposed amendment of CPLR 8201(3) substitutes a uniform $300 for this step statewide.

Under the proposals, total costs, should a trial result, would be $700 in a Supreme Court action, as opposed to the present total of $300 in New York City and $150 in other counties. If the jump seems at all dramatic, it is only because of continuing omissions over the years to have the costs provisions merely track the movement of the dollar.

A proposal to have costs for the trial stage progress on a per diem basis (the amount proposed was $200 daily) was deferred by the Committee, not because unfair or unjust, but because it was deemed to be too radical in the context of the history of costs in New York.

Motion costs are presently a maximum of $40 under CPLR 8202. The proposal would raise the maximum to $100. Considering that this provision governs every category of motion, and that ordinarily even the most insignificant motion will entail time and effort ultimately costing each litigant well in excess of the $100 maximum proposed, the figure was deemed a reasonable one.

It should be pointed out in connection with motion costs that CPLR 8202 governs only the amount of motion costs, should they be awarded. Whether to award them is the mission of CPLR 8106, which leaves the matter to the court's discretion. That discretion could of course be exercised to award costs in a sum less than the $100 maximum. Several members of the Committee expressed the view that a more liberal application of the costs sanction on motions might have a salutary effect on discouraging at least the more frivolous motions.

The sum of $75 is the maximum award applicable at present on an appeal to the Appellate Division under CPLR 8203(a). The proposal raises this to $250 and eliminates the two-stage award (one before and one after argument) now used.

The sum of $125 is the present maximum for costs upon an appeal to the Court of Appeals under CPLR 8204. The proposal raises this to $500, still far from any realistic appraisal of the appeal's actual cost but nonetheless a step forward. Again, the two-stage standard presently applicable is abandoned.

The labors that went into a formulation of the costs proposals were largely those of one of the Committee's own members, William D. Eggers of Rochester, and the Committee wishes to acknowledge those efforts with thanks.

Part III—Pending and Future Matters

The Committee has a number of projects under way or under consideration. The more prominent of these are the following:

1. Professor Sheila L. Birnbaum of New York University School of Law is reviewing the suggestions and counter-proposals that have come in from members of bench and bar and from the various clerks' offices around the state in response to her proposed amendments of the official forms. She is also revising the comments that accompany the forms.

2. The study of the disclosure article by Robert T. Greig, Esq., of this Committee, and Justice William P. McCooe of the Supreme Court, New York County, is continuing. Drafts of a number of proposals were submitted to the Committee and several meetings discussed these in depth. The Committee has at least tentatively decided to integrate any changes decided upon into the structure of Article 31 of the CPLR as it is, avoiding a radical overhaul. The nature and form of the changes are undergoing continued drafting and Committee study.

3. Further study of the costs provisions applicable in litigation, including the extra allowances provided by Article 83 of the CPLR and the costs applicable to smaller actions pursuant to Article 19 of the lower court acts, has been deferred until adoption of the basic increase bill that was submitted but not adopted in 1980 and is being resubmitted this year (proposal No. 13 in Part II of this Report).

4. Possible legislative or rule implementation of the Court of Appeals decision in *Gordon v. Committee on Character and Fitness*, 48 N.Y.2d 266, 422 N.Y.S.2d 641 (1979), is still under consideration. The *Gordon* case invalidated the state's six-month residency requirement for bar admission.

5. The Committee is keeping abreast of developments in several pending cases involving the constitutionality of several enforcement of judgment provisions. These are principally the restraining notice of CPLR 5222 and the property execution of CPLR 5230, which are under a cloud for failure to require that the judgment debtor be given prior notice of the use of these devices, which affect the debtor's property. The federal courts have at least one such case pending at the moment and the Committee will keep abreast of its progress, with an eye to remedial legislation to meet such constitutional objections as may be sustained in the courts.

6. The Committee is considering a proposal that would avoid forum abuse in small cases, notably one involving a small sum (one that would fit within Small Claims jurisdiction) that is sued on in the Supreme Court in the plaintiff's county, although the claim arose and the defendant resides in a different county. It was reported to the Committee, for example, that a veterinarian with his office in New York County made it a habit to sue his New York customers, based on New York transactions, in the Supreme Court of Westchester County, the plaintiff's residence. This is technically a fulfillment of the venue requirements applicable in the Supreme Court (CPLR 503), but the policy of the state to have small claims adjudicated in the lower court of an appropriate county is undermined by such use of the Supreme Court. The Committee is undecided about the form that a remedy is to take and has before it possibilities based on altered venue rules, an expansion of the definition of a consumer transaction so as to embrace the offensive cases and a costs penalty for abusive forum choices in small cases.

7. The Committee is considering the impact on the tort settlement statute, Gen. Oblig. L. §15-108, of the Court of Appeals decision in *Riviello v. Waldron*, 47 N.Y.2d 297, 418 N.Y.S.2d 300 (1979). The statute applies in multi-tortfeasor cases when fewer than all the tortfeasors settle, determining rights among them when a non-settlor is then sued. The *Riviello* case holds that the statute applies only in "contribution" cases but not in "indemnification" cases, i.e., those in which the relationship between the settling and non-settling defendants is such that one derives liability entirely from the other. The impact of the case is to discourage settlements on the part of the one whom the law would presumably most encourage to settle: the primary wrongdoer. Possible amendment of the statute to include indemnification as well as contribution cases is under consideration.

8. There are a number of other proposals, of varying size and impact, also before the Committee, which do not require individual enumeration here.

* * * * *

The Committee continues to solicit the comments and suggestions of bench, bar, school and public, and invites the sending of all observations, suggestions and inquiries to:

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Respectfully submitted,

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January 22, 1981

Tenth Annual Report
to the
Judicial Conference
and the
Chief Administrator of the Courts
of the
State of New York

by the

Advisory Committee on Criminal Law and Procedure
January 1981

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I. Introduction

This is the Tenth Annual Report of the Advisory Committee on Criminal Law and Procedure. We recommend that the Judicial Conference sponsor twenty bills to amend the Criminal Procedure Law, two to amend the Penal Law and one to amend the County Law. Ten of these proposals are being submitted for the first time, and four, although sponsored by the Judicial Conference previously, have been revised. Each of the bills is appended to the report in the order in which it is discussed.

The new proposals to amend the Criminal Procedure Law include the establishment of a procedure for obtaining a warrant of arrest prior to the commencement of a criminal action, a comprehensive statutory formulation for judicially-sanctioned nontestimonial identification procedures and various bills governing pre-trial motions, trial procedure and appeals.

The proposed amendments affecting pre-trial motions would permit a local criminal court to inspect grand jury minutes upon a motion to dismiss a prosecutor's information which was directed to be filed by a grand jury, allow a defendant to obtain a bill of particulars upon demand and clarify provisions regarding the release of grand jury minutes of a proceeding involving a juvenile offender after removal to the Family Court.

Our recommended amendments relating to the conduct of the trial would provide an alternative method of jury selection and expand the authorization for conditional examinations of unavailable witnesses and the use of recorded prior testimony at trial.

Our proposals regarding appeals would permit the prosecution of an indictment after an unsuccessful appeal by the People from an order suppressing evidence when newly discovered evidence has become available and include authorization for a stay of judgment pending appeal from a denial of a post-judgment motion.

Our new proposal to amend the Penal Law would correct a legislative oversight which now requires a juvenile offender adjudicated a youthful offender to be sent to state prison while a juvenile not accorded this benefit must be placed with the Division for Youth.

Last year's proposal to authorize the Chief Administrator to prescribe forms has been revised to specify that noncompliance with official forms shall not be grounds for denial of a motion. A revision to our proposal reducing the allotted number of peremptory challenges would allow a trial judge to restore these challenges when exceptional circumstances warrant it. Our proposal regarding a waiver of appeal from the denial of a suppression motion contains a technical clarifying revision, and our proposed amendment to the Penal Law definitions of bribery was expanded to include the crimes of Bribery in the First Degree and Bribe Receiving in the Second Degree.

We also recommend continued support for proposals submitted to, but not passed at, the 1979-80 session of the Legislature. With respect to criminal procedure, these are bills to clarify the provision granting immunity to witnesses appearing before the grand jury; to expand the authorization for ordering disclosure of nontestimonial evidence; to expand the participation of the trial judge in the jury selection process; to permit the court to reserve decision on a motion for a trial order of dismissal; to allow a deliberating jury to disperse temporarily; to prohibit the granting of permission to appeal to the Court of Appeals by a Justice of an appellate division who did not participate in the determination; to allow a court to order that a hearing on a suppression motion be held during trial; and to require a defendant to submit sworn allegations of fact in support of a motion to suppress statements. Also submitted without change is a proposed amendment to the County Law to establish a procedure for the review of reimbursement to assigned counsel.

II. Proposed Amendments to the Criminal Procedure Law

A. Procedure to Obtain Warrant of Arrest . . §§1.20, 120.10, 120.20, 120.30, 120.40, 120.50, 120.90

The Committee recommends an amendment to section 1.20 and article 120 of the Criminal Procedure Law to establish a procedure for obtaining a warrant of arrest prior to the formal commencement of a criminal action.

In a recent opinion, the United States Supreme Court held that an arrest warrant must be obtained before police may enter a suspect's home to make a "routine" felony arrest, absent exigent circumstances. *Payton v. New York*, ____ U.S. ____, 100 S. Ct. 1371, decided April 15, 1980. Under existing New York law, an arrest warrant may not be issued until after an accusatory instrument commencing a criminal action is filed. CPL §120.10. This limitation causes difficulty when authority to arrest is needed and a court is unavailable for the filing of the accusatory instrument, or practical problems delay the preparation of the instrument itself. There also are circumstances under which probable cause to arrest an individual exists but further investigation is warranted before the prosecution can determine whether to commence a criminal action. Therefore, it is necessary to develop a mechanism whereby law enforcement officers possessing the statutory requirements to arrest without a warrant in a public place may obtain judicial authorization to arrest a person in his home before formal criminal proceedings are begun.

Our proposal would establish that mechanism by amending the existing arrest warrant provisions to permit an *ex parte* application to be made to the court for a warrant when a person may be arrested for a crime pursuant to section 140.10 of the Criminal Procedure Law and all other statutory requirements are met. The application provisions are patterned after those governing search warrants (*see*, CPL §690.35), and the procedure to be followed after arrest remains as stated in section

140.20 with the additional requirement of a return of the warrant and a report to the court indicating the time and place of the arrest and subsequent steps taken.

The new procedure established by this measure will safeguard the rights of individuals suspected of criminal activity while permitting law enforcement officers to complete their investigations before commencing formal proceedings. It must be noted, however, that this measure may also have an impact upon the scope of other investigatory procedures which may be conducted before an action is commenced. *See, People v. Samuels,* 49 N.Y.2d 218 (1980).

B. Chief Administrator to Prescribe Forms . . . §1.15

The Committee recommends an amendment to article one of the Criminal Procedure Law adding a new section which authorizes the Chief Administrator of the Courts to adopt, amend and rescind forms to be used in all criminal courts throughout the State.

Under existing provisions of the Civil Practice Law and Rules (§107), the Family Court Act (§214), and the Surrogate's Court Procedure Act (§106), the Chief Administrator is authorized to prescribe forms for the efficient administration of these acts. Our proposal would include this authority in the Criminal Procedure Law.

We have commenced a project to establish an official set of forms for use in all criminal courts. During the past year we collected samples of existing forms used in the various courts. A consultant has studied these samples and will be preparing revisions in an effort to achieve uniformity and compliance with applicable provisions of law. The promulgation of these forms will ensure a degree of uniformity in criminal practice throughout the State where a variety of forms are now employed.

The proposal approved by the Judicial Conference at its January, 1980 meeting has been revised to specifically indicate that noncompliance with official forms shall not be grounds for the denial or granting of a motion for that reason alone.

C. Motion to Dismiss a Prosecutor's Information . . . §170.50

The Committee recommends an amendment to section 170.50 of the Criminal Procedure Law to require that a motion to dismiss a prosecutor's information filed at the direction of a grand jury, brought on grounds that evidence before the grand jury was legally insufficient or that the grand jury proceeding was defective, shall be heard and determined by the local criminal court in which the prosecutor's information has been filed.

Under current law, such a motion must be brought before the superior court which impaneled the grand jury or a superior court in the county embracing the local criminal court in which the prosecutor's information has been filed and in which it will be prosecuted. Normally, the local criminal court will holds its proceedings in abeyance pending determination of the dismissal motion in the superior court resulting, in the ordinary case, in extensive delays.

This bifurcation of the criminal proceeding is unnecessary, however, and may, in certain cases, have unjust consequences. In *Peopel v. Ferrara,* 102 Misc. 2d 253 (Crim. Ct., Queens Co. 1979), considerable delay arising out of difficulties attending the procurement and inspection of grand jury minutes by a Supreme Court Justice resulted in dismissal of the accusatory instrument on speedy trial grounds.

Pursuant to our proposal, responsibility for inspecting grand jury minutes and ruling on a motion to dismiss because of their insufficiency or flaws in the grand jury proceeding itself is vested exclusively in the local criminal court in which the matter is being prosecuted. This will enable the court with trial jurisdiction over the matter to retain control of it at all stages. Moreover, it will have the salutary effect of giving the trial court an early view of a case's merits, a feature which may well facilitate its disposition at later stages. Finally, it will relieve busy supreme and county court judges of the task of ruling on the merits of matters no longer pending in their courts.

D. Immunity of Grand Jury Witnesses . . . §190.40

The Committee recommends the resubmission of an amendment to section 190.40 of the Criminal Procedure Law to clarify existing law by providing that a witness before the grand jury does not receive immunity by reason of giving identification evidence of a nontestimonial character which the witness would have no constitutional privilege to withhold.

Section 190.40 now confers immunity upon any witness who has been compelled to "give evidence" before the grand jury. This standard of "giving evidence" is, however, overbroad and could be construed to authorize immunity for a person appearing before the grand jury even if the evidence he gives was nontestimonial and not of a type which he is otherwise privileged to withhold.

If a witness has no privilege with respect to this evidence, he has given up nothing by furnishing it to the grand jury and should not receive immunity as a result.

These considerations apply primarily to the giving of nontestimonial identification evidence, such as standing in a lineup, or furnishing a blood, voice, handwriting or fingerprint sample. A witness has no constitutional privilege to refuse to give this evidence, *Schmerber v. California,* 384 U.S. 757 (1966), and, therefore, should not receive immunity by reason of providing it.

Paragraph (c) of subdivision two of section 190.40, as added by the Legislature in 1975, recognizes the principle as it applies to corporate books and records which a witness similarly would not be privileged to withhold.

Our proposal would delete paragraph (c) and replace it with a general provision which limits the grant of immunity to evidence which is protected from disclosure by the privilege against self-incrimination.

E. Bill of Particulars Upon Demand . . . §200.90

The Committee recommends the repeal of existing section 200.90 of the Criminal Procedure Law and its replacement by a new section permitting a defendant to obtain a bill of particulars upon demand.

Section 200.90 now provides that bills of particulars in criminal proceedings may be obtained only upon motion to the court. Under new section 200.90, as recommended to be added by our proposal, bills of particulars would be made available upon demand by the defendant, without the necessity of a motion to the court. The prosecutor would have twenty days from the service of defendant's demand for a bill of particulars to file it with the court and to serve a copy thereof upon the defendant or his attorney. In the event the prosecutor fails to furnish to refuses to furnish a bill of particulars, the court would be authorized, upon motion of the defendant, to order the prosecutor to comply with the demand.

The practice of requiring defendants to seek bills of particulars by motion only is a needless *pro forma* procedural exercise which unnecessarily burdens our courts. Since motion procedures would be available as safeguards against abuse, demands for bills of particulars should be used in the first instance to provide defendants with the information necessary to ensure adequate preparation of defenses. *See, People v. Iannone,* 45 N.Y.2d 589 (1979).

Additionally, our proposal would remedy an apparent oversight in the law. Section 240.20 of the Criminal Procedure Law now permits discovery upon demand by defendants of certain property in the prosecutor's possession. It makes no provision, however, for obtaining bills of particulars. *See,* Bellacosa, Supplementary Practice Commentaries, McKinney's Cons. Laws of N.Y., Book 11A, CPL §200.90, p.153. Our proposal would supply the necessary missing authority.

F. Discovery of Nontestimonial Evidence . . . . §240.40

The Committee recommends the resubmission of an amendment to section 240.40 of the Criminal Procedure Law to expand a court's authority to issue an order requiring a defendant to provide nontestimonial evidence.

Section 240.40 of the Criminal Procedure Law, effective January 1, 1980, now authorizes a court in which an indictment, superior court information, prosecutor's information or information is pending to order a defendant to provide nontestimonial evidence. This order may require a defendant to appear in a lineup, speak for identification, be fingerprinted, pose for photographs, provide blood, hair or handwriting samples or submit to a medical examination. CPL §240.40(2).

Our proposal would expand the court's authority to issue this order to proceedings in which a felony or misdemeanor complaint is pending. Since these accusatory instruments must also contain factual allegations supporting or tending to support the charges, there is no reason to exclude them from the list of instruments which provide the basis for the court's authority.

Although this proposal is included within our recommendation for comprehensive judicially-sanctioned nontestimonial identification procedures, the Committee feels that it also merits consideration as a separate bill.

G. Alternative Method of Jury Selection . . . §270.15

The Committee recommends an amendment to section 270.15 of the Criminal Procedure Law to permit an alternative method of jury selection in criminal cases. This method would allow the seating of fourteen rather than twelve members of the jury panel to be examined by the court and the parties concerning their qualifications to serve as jurors.

After the court and counsel have completed their examinations and exercised their challenges on the first round, the sworn jurors may be removed from the jury box and fourteen additional members of the panel may be seated. This procedure is then repeated until jury selection is completed. Experienced trial judges have found that seating fourteen members initially would save a significant amount of time and be advantageous to counsel in an area that is often the single most time consuming phase of a criminal trial. The consent of the parties is required to preserve their rights.

H. Conduct of Voir Dire . . . . §270.15

The Committee recommends the resubmission of an amendment to section 270.15 of the Criminal Procedure Law to delete the requirement that the court must permit the parties to examine prospective jurors and replace it with a procedure which confers this responsibility upon the court.

After the general examination of prospective jurors conducted by the court under existing law, our proposal would permit the court to ask the jurors those questions previously submitted to the court in writing by the parties. Alternatively, the court may permit counsel to ask the jurors these previously submitted questions. During the voir dire, if additional questions are deemed necessary by either party, they may be submitted to the court orally or in writing and the court may then add these to its inquiry or give counsel an opportunity to ask them.

This procedure would result in the elimination of a significant amount of delay caused by the prolonged voir dire now conducted by counsel for the parties. It combines the attributes of the existing system in New York and the Federal jury selection system, in which voir dire is generally conducted by the court without the participation of the lawyers. Our proposal would eliminate delay while preserving the rights of the parties to an impartial jury.

I. Reduction of Peremptory Challenges . . . . . §270.25

The Committee recommends the resubmission of a revised version of last year's proposal to amend section 270.25 of the Criminal Procedure Law to reduce the allotted number of peremptory challenges from twenty to fifteen if the highest crime charged is a Class A felony, from fifteen to twelve if the highest crime charged is a Class B or C felony, and from ten to eight in all other cases.

After conducting an intensive study of the method of jury selection in New York, the Subcommittee on the Jury System of the Advisory Committee on Court Administration, chaired by the Hon. Caroline K. Simon, recommended the reduction of the number of peremptory challenges to the levels proposed by this bill as a means of improving the efficiency of our jury selection system. Subcommittee on the Jury System, *Interim Report*, 1976/77. The Subcommittee based its recommendation on the following specific findings:

1. There is a direct correlation between the number of peremptory challenges permitted and the excessively large size of panels sent to voir dire.

2. Peremptory challenges extend the time necessary to conduct voir dire, which has the effect of delaying trials and congesting court calendars.

3. The use of the challenge provokes hostility and resentment on the part of jurors who are peremptorily excused.

4. The availability of a large number of peremptory challenges in criminal cases can result in systematic exclusion of particular groups from jury service in a given trial.

5. It is questionable whether the peremptory challenge accomplishes the purpose for which it was devised — producing an impartial jury; indeed, it may convincingly be argued that it is used by attorneys to pick a biased jury rather than an unbiased one.

The Subcommittee also noted that New York now allows more challenges in felony cases than most other states.

This Committee agrees with these findings and recommends this proposal as an effective method of reducing a significant amount of delay in the conduct of criminal jury trials, without diminishing the fairness of the trial.

Last year's proposal has been revised to permit the court, for good cause shown, to increase the number of allotted peremptory challenges to the level allowed under existing law. The Committee feels this authority is necessary to preserve the rights of the parties in exceptional cases.

J. Decision on Motions for a Trial Order of Dismissal . . . §§290.10, 450.20

The Committee recommends the resubmission of an amendment to sections 290.10 and 450.20 of the Criminal Procedure Law to permit a trial court to reserve decision on a motion for a trial order of dismissal until after a verdict of guilty has been rendered.

By reversing decision, the trial court may preserve the People's right to appeal an adverse decision without affecting the rights of the defendant, since the decision would have to be based upon the evidence presented up to the time when the motion was made. If the motion were to be granted immediately based upon the insufficiency of the evidence presented, reprosecution would be impermissible, and therefore, the decision would not be appealable. *People v. Brown*, 40 N.Y. 2d 381 (1976), *cert. den.*, 429 U.S. 975 (1976). A decision issued after a verdict has been rendered, however, is appealable, since upon reversal, the appellate court may reinstate the verdict and avoid the problems caused by defendant's constitutional privilege against double jeopardy. *People v. Leach*, 46 N.Y.2d 821 (1978).

K. Separation of Jury During Deliberations . . §310.10

The Committee recommends the resubmission of an amendment to section 310.10 of the Criminal Procedure Law to permit a deliberating jury to separate temporarily, including overnights and on weekends and holidays, with the consent of the parties. This would facilitate and encourage jury service, reduce the potentially coercive impetus to arrive at a prompt verdict and save the expense necessitated by prolonged sequestration in cases in which there is no likelihood of jury tampering or influence.

Section 310.10 now provides that a deliberating jury "must be continuously kept together under the supervision of a court officer or court officers" or other personnel. This requires that deliberating jurors be kept in hotel rooms or other accommodations, fed and guarded during deliberations. This rule is in marked contrast to the more flexible approach employed in the federal courts, where sequestration is within the court's discretion.

Our proposal would amend New York's rigid rule by allowing dispersal when the parties consent. Consent should be the rule rather than the exception. In most cases the jury is not sequestered during the trial itself, and the possibility that the jurors will defy the court's instructions and read about or discuss the case with outsiders, or that the jurors will be tampered with, should be no greater during deliberations. The possibility of exposure to news reports may be less during deliberations when the media no longer have any new evidence to report.

It is undisputed that this proposal would have a favorable impact on the State budget. An evaluation of costs of sequestering juries has indicated that its enactment could result in a saving of approximately $1,200 to $1,500 for each day a jury is not sequestered when it normally would have been, and the total potential savings in expenses for meals, lodging and transportation for jurors and overtime pay for court personnel could exceed $700,000.

L. Prosecution of Superseding Indictments . . . §450.50

The Committee recommends an amendment to section 450.50 of the Criminal Procedure Law to permit the People to retry an indictment after an unsuccessful appeal of an order granting a motion to suppress when newly discovered evidence, not available at the time the appeal was taken, indicates that prosecution is in the interest of justice.

When the People take an appeal from an order suppressing evidence, they must first file a statement asserting that the deprivation of the use of the suppressed evidence has rendered the sum of the proof available to the People either insufficient as a matter of law or so weak in its entirety that any reasonable possibility of prosecuting the charge to a conviction has been effectively destroyed. CPL §450.50(1). If the appeal is unsuccessful and the order is not reversed by the appellate court, the taking of the appeal "prohibits subsequent prosecution of the same defendant upon either the same or a superseding accusatory instrument for the crimes charged in the original instrument, at least in the absence of extraordinary circumstances." *Forte v. Supreme Court of the State of New York*, 48 N.Y.2d 179, 188 (1979); CPL §450.50(2).

Our proposal would specifically define the extraordinary circumstances alluded to in *Forte* and remove the absolute bar to prosecution in those instances where it would unduly encumber the administration of justice. For example, a literal interpretation of the existing statute would bar the prosecution of a defendant who voluntarily confesses to the crime after the People have filed their required statement. The dissent in *Forte* called for legislative action to correct the injustice which occurs when evidence not previously available to the District Attorney later becomes available. 48 N.Y.2d at 191.

Our proposal would codify that suggestion and eliminate a potential injustice in those rare instances when a court determines that subsequent developments should allow the prosecution to proceed.

M. Justice Who May Grant Leave to Appeal . . §460.20

The Committee recommends the resubmission of an amendment to section 460.20 of the Criminal Procedure Law to provide that permission to appeal to the Court of Appeals from an order of an appellate division may not be sought from a justice who did not participate in the determination.

Section 460.20 now allows permission to be granted by any "justice of the appellate division of the department which entered the order sought to be appealed." Although this appears to encourage "judge-shopping," in practice, permission to appeal usually is sought only from an appellate justice who dissented in the case. Nevertheless, where the application is made to one who did not hear the arguments or participate in the decision, the unmistakable inference is that he or she has been selected because the appellant perceives a predisposition to the appellant or to a particular side, defense or prosecution. Although this perception may be incorrect, the choice of a nonparticipating justice gives the appearance of impropriety and should not be permitted.

This proposal recently was cited with approval by the Court of Appeals in its unanimous decision in *People v. Dorta*, 46 N.Y.2d 818 (1978). That case was before the Court of Appeals by permission of a justice of the appellate division who did not participate in the determination sought to be appealed. The Court of Appeals commented:

> . . While such procedure is presently authorized (CPL 460.20 subd. [2], par. [a]), we believe the better practice to be that which was recently advocated by the Advisory Committee on Criminal Law and Procedure—to wit, that an appellant be prohibited from seeking leave to appeal to the Court of Appeals from a Justice of the Appellate Division who did not participate in the determination of the case. 46 N.Y.2d at 821.

N. Stay of Judgment Pending Appeal . . . §460.50, 460.60

The Committee recommends an amendment to sections 460.50 and 460.60 of the Criminal Procedure Law to permit an appellate court which has granted a certificate granting leave to appeal the denial of a motion to vacate a judgment to also grant a stay of that judgment pending the outcome of the appeal.

It recently was brought to the Committee's attention that there is no statutory authority to grant a stay of judgment pending an appeal from the denial of a motion to vacate a judgment pursuant to article 440 of the Criminal Procedure Law. The applicable statutory provisions permit the relief only during the pendency of a direct appeal from a judgment. Therefore, it is necessary to establish a procedure to enable a court to grant this relief under the limited circumstances in which it is appropriate.

In recognition of the unique function of this authority and the relatively few instances in which it should be exercised, our proposal limits the authority to grant a stay to an intermediate appellate court after it has granted the certificate granting leave to appeal and to a judge of the Court of Appeals who has granted leave to appeal to that Court. All other statutory conditions applicable to obtaining a stay must also be met before this relief may be awarded. With these limitations, the recommened amendment fills an unnecessary gap in existing law by allowing a defendant to remain at liberty when the merits of his appeal or other unusual circumstances justify this relief.

O. Use of Conditional Examinations . . . . §660.20

Last year the Committee recommended an amendment to article 660 of the Criminal Procedure Law to authorize the videotaping of conditional examinations, to expand the authorization for use of these examinations and to expand the use of prior testimony in general. Although authorization for videotaping was adopted at the 1979-80 session of the Legislature, the remainder of the Committee's proposal was not passed. Therefore, we no recommend an amendment to section 660.20 to allow conditional examinations of witnesses where there is a showing of an attempt to induce the witness to be absent or otherwise unavailable to testify, and to permit the use of prior testimony given at any pretrial hearing when all statutory conditions are met.

The expansion of the use of conditional examinations to situations where there is an attempt to induce the witness to be absent is a reasonable response to those rare situations in which this authority is necessary. This is especially true now that the examination may be videotaped, thereby enabling the trier of fact to obtain a complete view of the witness as well as a transcript of the testimony.

Authority to use transcripts of prior testimony given at pre-trial hearings also is reasonable and desirable, since the statute already permits the use of previous testimony given at preliminary hearings upon felony complaints. Other previous testimony is no less reliable and, therefore, also should be admissible when all other statutory requirements are met. The United States Supreme Court recently has determined that the use of the previous testimony of an unavailable witness does not violate the confrontation clause of the United States Constitution when adequate safeguards similar to those applicable in New York exist to ensure the reliability of the testimony. *State of Ohio v. Roberts,* ___ U.S. ___, decided June 25, 1980.

P. Identification Order . . . Article 695

As a result of a detailed study of various proposals to codify investigatory procedures in New York State, and based upon our review of the Model Code of Pre-Arraignment Procedure, the Committee recommends the addition of a new article 695 to the Criminal Procedure Law to provide a comprehensive statutory formulation for judicially-sanctioned nontestimonial identification procedures.

The principal features of our proposal are as follows:

Proposed Section 695.05

The basic approach of this recommendation is to provide a procedure whereby a prosecutor may obtain identification material in a reasonable manner which would not violate established constitutional principles. The United States Supreme Court in *Davis v. Mississippi,* 394 U.S. 721 (1969), indicated that the Court would uphold requiring persons to submit to reasonable identification procedures not involving Fifth Amendment testimonial rights, if prior judicial approval were obtained. This section would define the identification procedure in conformity with this stated objective.

Proposed Section 695.10

In compliance with the suggestion in *Davis v. Mississippi, supra,* this section would limit the use of an identification order to those narrowly defined circumstances in which a crime has been committed and the benefit to law enforcement outweighs the inconvenience imposed by granting the order.

Proposed Section 695.15

This section governs the specificity of information required to assist the court in making its determination whether to issue the order and to facilitate subsequent judicial review. The requirements seek to ensure that the degree of specificity in the application will meet constitutional standards. *See, Wise v. Murphy,* 275 A. 2d 205 (D.C.App.1971).

Proposed Section 695.20

This section prescribes the form and content of the identification order itself. The order is derived from the American Law Institute's model "Order to Appear for Identification Procedures" and is tailored to similar provisions governing applications for warrants under the Criminal Procedure Law. *See,* CPL §§690.45, 700.30.

Proposed Section 695.25

This section would require personal service of the identification order and the application unless the court directs dispensing with service of the application. Service shall be completed within five days of the date of issuance, and the order may be served only between the hours of 8:00 a.m. and 8:00 p.m. unless the court finds that urgent circumstances exist to justify authorizing service at other times.

Proposed Section 695.30

Contempt of court is the appropriate authorized sanction to be imposed for failure to comply with an identification order. The United States Supreme Court has upheld the contempt sanction to enforce grand jury subpoenas requiring persons to furnish voice and handwriting exemplars, *United States v. Dionisio,* 410 U.S. 1 (1973), and the Fourth Circuit Court of Appeals upheld a conviction for contempt where a defendant refused to comply with a court order requiring him to appear in a lineup. *United States v. Hammond,* 419 F.2d 166 (1969), *cert. den.,* 397 U.S. 1068 (1970).

Proposed Section 695.35

A motion to vacate is expressly made available to a person subject to an identification order. The subject of the order may challenge it on the grounds that it was improperly issued or that the requested evidence could have been obtained by other means. This section would also provide that a person may be compelled to give the requested evidence without receiving immunity therefor. *See, Schmerber v. California*, 384 U.S. 757 (1966).

Proposed Section 695.40

The key feature of this section is that no person may be subjected to investigative questioning while being detained pursuant to an identification order. This provision would serve to satisfy the objectives of the proposal while ensuring respect for a person's Fifth Amendment rights. *See, Dunaway v. New York*, 442 U.S. 200 (1979).

Proposed Section 695.45

The identification order shall be returned to the issuing judge within the specified time period, and, if the order was implemented, the return shall contain a description of the evidence obtained.

Proposed Section 695.50

This section would mandate the confidentiality of all papers, applications and orders, except as may be provided by court order upon application of the subject of the identification order or the applicant.

As stated previously, our proposal also includes the recommended amendment to section 240.40 of the Criminal Procedure Law explained in item "F" of this report. That proposal expands the court's authority to order discovery of nontestimonial evidence to cases in which a felony or misdemeanor complaint is pending.

The enactment of our proposal would have a significant impact upon the criminal justice process. There is now no statutory authority in New York regulating procedures for obtaining identification evidence. If the police have sufficient evidence to establish probable cause to arrest a person, they may proceed with their investigation. If, however, the evidence does not satisfy the probable cause standard but does meet the criteria established by this proposal, under existing statutory law, there is no way that the police can secure the presence of a person who does not consent to the identification. As stated in the commentary to the American Law Institute's Model Code of Pre-Arraignment Procedure:

> A strict adherence to the standard of probable cause for detentions to conduct identification procedure not only hinders the police in their efforts to gather evidence, but also encourages them to use arrest in cases where there may not be reasonable cause. In many cases the police have sufficient evidence to justify a lawful arrest, yet further investigation is called for before a decision to institute criminal proceedings is warranted. Since, under generally prevailing law, sufficient grounds to arrest are required to obtain identification evidence, the police may arrest before conducting such procedures and then determine whether to charge the suspect with the crime. If, as a result of the evidence obtained from such post-arrest procedures the suspect is found to be innocent of the crime under investigation and released without further judicial proceedings, he still [must bear the consequences of an arrest].

Q. Suppression Hearings During Trial . . . . . §710.40

The Committee recommends the resubmission of an amendment to section 710.40 of the Criminal Procedure Law to authorize a court to conduct a hearing upon a motion to suppress evidence simultaneously with the trial.

Subdivision three of section 710.40 now provides that the trial may not commence until determination of the motion. In some instances this requirement is unnecessary and causes inconvenience to parties and witnesses.

Whenever a defendant receives from the prosecutor a notice of intention to offer evidence pursuant to CPL §710.30, it has become standard practice for the defendant to make a motion to suppress that evidence. In many cases a hearing is then held upon the motion, and the evidence offered at the hearing largely duplicates the evidence presented at the trial. In the majority of the cases the evidence is not suppressed and a trial is scheduled. In essence, therefore, two trials are held. In addition to the expense this duplication entails, the victim, who already has suffered the trauma of the crime, and who perhaps had to appear in the local criminal court and before the grand jury, and who will still have to appear to testify at the trial, is put through the ordeal of another round of testimony and cross-examination.

Our proposal would authorize the court to conduct the hearing during the trial. If the court finds that the evidence should be suppressed it may declare a mistrial. The Court of Appeals has specifically authorized this procedure. *People v. Ganci*, 27 N.Y. 2d 418, 427 (1971). This bill would merely codify the Court of Appeals decision in *Ganci*.

R. Summary Dismissal of Motions to Suppress Evidence . . . §710.60

The Committee recommends the resubmission of an amendment to section 710.60 of the Criminal Procedure Law to allow a court to dismiss summarily a motion to suppress statements when the movant fails to provide sworn allegations of fact to support the motion. This procedure has been upheld, under existing law, by the Appellate Division, Second Department. *People v. Roberto H.*, 67 A.D. 2d 549 (2nd Dept. 1979). Our proposal would merely codify that decision. The Criminal Procedure Law "... does not require a hearing on a motion to suppress without regard to whether there is any basis for such motion, and without regard to the factual showing made in support of such motion." 67 A.D.2d at 553. By requiring a factual showing, this bill will discourage *pro forma* motions which unnecessarily burden our court system.

S. Waiver of Appeals from Denials of Motions to Suppress Evidence . . . §710.70

The Committee recommends the resubmission of an amendment to section 710.70 of the Criminal Procedure Law to permit a defendant to waive his right to appeal the denial of a motion to suppress.

Section 710.70(2) now provides that "[a]n order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty." This provision enables a defendant, after his motion to suppress is denied, to plead guilty to the charges and save the time and expense of a trial when his main defense was based upon the suppression of evidence. A defendant in this position is not required to go through an entire trial simply to preserve an issue on appeal.

There are, however, many cases in which, as part of a negotiated plea, the defendant pleads guilty to a lesser charge or pleads guilty to a charge in one indictment to cover several other indictments. In these cases, the defendant has made a bargain and received a benefit for his agreement to conviction for a particular crime. Nevertheless, on appeal, he may continue to argue that he should be relieved of the bargain which he freely made. This increases the heavy burden on our appellate courts, and, if the conviction is ultimately reversed, the passage of time may have severely impaired the prosecution's case.

Our proposal would codify existing caselaw which authorizes a court to accept a waiver of appeal from a defendant who pleads guilty to a lesser charge. It is certainly not unfair to require a defendant as part of a plea bargain to recognize that the bargain is final and that the previous rulings are out of the case. The defendant still could appeal the excessiveness of his sentence or anything else not included in the agreement.

The Court of Appeals has expressly upheld this practice and the Appellate Division, Second Department has suggested in an opinion that the Legislature should address this issue. *People v. Williams*, 36 N.Y.2d 829 (1975); *People v. Navarro*, 61 A.D.2d 534 (1978).

T. Disclosure of Grand Jury Minutes Upon Removal to Family Court . . . §725.10

The Committee recommends an amendment to section 725.10 of the Criminal Procedure Law to clarify the provisions governing release of the grand jury minutes of a proceeding involving a juvenile offender whose proceeding has been removed to Family Court.

A literal interpretation of section 725.05 of the Criminal Procedure Law and section 731 of the Family Court Act would permit a respondent in Family Court to automatically gain access to the grand jury minutes of his proceeding and thereby obtain greater rights than those afforded adult defendants under similar circumstances. *Matter of Glenford S.*, _____ A.D.2d _____ (2nd Dept., 1981).

The Family Court Advisory and Rules Committee specifically referred this matter to our Committee for consideration of proposing clarifying legislation. Our proposal would expressly provide that the grand jury minutes of transferred proceedings continue to be subject to the secrecy requirements of the Criminal Procedure Law and that Family Court be authorized to order disclosure to the extent permissible in criminal courts. *See*, CPL §§190.25(4), 210.30(3).

III. Proposed Amendments to the Penal Law

A. Placement of Juvenile Offenders . . . §70.20

The Committee recommends the repeal of subdivision four of section 70.05 and an amendment to section 70.20 of the Penal Law to clarify an existing amiguity regarding the place of imprisonment of a juvenile offender.

During the 1979-80 session, the Legislature passed an amendment to article 720 of the Criminal Procedure Law to allow a court to grant the benefits of youthful offender treatment to a juvenile offender. There was, however, no corresponding amendment to the sentencing provisions of the Penal Law, and, therefore, juvenile offenders awarded youthful offender status, if sentenced to imprisonment, were required to be committed to State prison or a local facility. This resulted in the inequitable situation whereby juvenile offenders who were denied youthful offender treatment were still required to be placed with the Division for Youth, Penal Law §70.05(4), while those given this benefit were required to be sent to an adult facility.

The original intent of the Legislature in enacting provisions dealing with the confinement of juvenile offenders was to place them with the Division for Youth until they were old enough to be transferred to an adult facility. Our proposal accomplishes this objective by providing that all juvenile offenders sentenced to imprisonment shall be committed to a secure facility maintained by the Division for Youth, and any subsequent transfer or release shall be governed by the provisions of section 515-b of the Executive Law.

B. Bribery and Related Offenses . . . §180.05, *et seq.*

The Committee recommends the resubmission of a revised version of an amendment to various sections of the Penal Law to clarify the definitions of bribery and related offenses in two respects. First, there should be no doubt that a bribe offer or soliciation constitutes bribery even if the person approached as recipient or donor rejects the unlawful overture. Second, it should be made clear that a representation by a public official that he "may" be influenced by the unlawful payoff, is bribe receiving. The problems with the existing statutes can be seen from illustrative cases.

In *People v. Brown,* 40 N.Y.2d 381 (1976), the defendant allegedly offered a police officer money for favorable treatment of a stolen automobile charge against a different person. The honest officer immediately notified his superior of the offer, was outfitted with a recording device and induced the defendant to repeat the offer in order to secure ironclad evidence. At the conclusion of the People's case, the trial court dismissed the indictment on the ground that the "agreement or understanding" described in Penal Law section 200.00 never occurred. The appeal was dismissed on the ground that retrial would have constituted double jeopardy, but in the Appellate Division, four of the justices, citing the practice commentary and prior law, said that they would otherwise have reversed. "We read the section as making criminal the offer by a defendant to bribe a public servant." 48 A.D.2d 95 (1st Dept., 1975). One justice disagreed, stating that "an agreement or understanding" was necessary: "These are the plain words of the statute. No commentary can change them." 48 A.D.2d at 99. In the Court of Appeals, the dismissal on double-jeopardy grounds was affirmed without the court's expressing any view of the correctness of the trial court's decision, but the dissent said that "the Appellate Division correctly observed that the crime of bribery did not require any agreement or understanding to accept a bribe for the purpose for which it had been offered." 40 N.Y.2d at 395.

The dictum of the four Appellate Division justices and the Court of Appeals dissent should be codified. Historically, articles 180 and 200 of the Penal Law, covering bribery and related offenses, were intended to encompass, within the substantive offenses, unsuccessful attempts to bribe or to solicit bribes. *See,* Hechtman, Practice Commentary, McKinney's Penal Law, §§180.00, 200.00 and 200.10. Thus, the word "offers" was used to describe a bribe and the word "solicits" to describe bribe-receiving. This was a recodification of prior law. *See, People v. Chapman,* 13 N.Y.2d 97 (1963). To avoid any confusion, the bribery statutes (Penal Law §§200.00, 200.04, 200.45, 215.00, 215.15) are redrafted in terms of the offeror's intent, and the bribe receiving statutes (Penal Law §§180.05, 180.80, 180.25, 180.45, 200.10, 200.12, 200.50, 215.05, 215.20) are redrafted to include "representations" where an agreement or understanding is rejected by the person solicited. A similar change is called for in the definition of compounding a crime, which occurs when one solicits or offers a benefit, other than an amount reasonably believed to be due as restitution or indemnification, in return for not initiating a criminal prosectuion. Penal Law §215.45.

The problem of the equivocal agreement can be seen in *People v. Adams,* 86 Misc. 2d 634 (Suff. Co. Ct., 1976). The defendant was a county legislator who was required to study and report on the feasibility of a county race track or off-track betting. He secretly solicited an official of a consulting firm to "ghostwrite" the report, promising, as the "quid pro quo", "to see what he could do" about getting subsequent consulting fees for the ghost-writer. Thereafter, the consulting firm did receive a $121,000 fee. The legislator was indicted for bribe receiving, but the court dismissed the indictment, holding, among other things, that the agreement or understanding that the defendant would "see what he could do" was:

> too imprecise to support an indictment for bribe receiving. The defendant made not unconditional promise of future reward without regard to merit . . . He merely stated that if [the ghost-writer] rendered a voluntary service, he would possibly be favorably regarded in the future. 86 Misc. 2d at 638.

The Committee does not believe that an unconditional promise should be required to establish the crime. Criminal conspirators seldom employ contractual boilerplate and a promise to "see what can be done" or to "try to take care of things" frequently is all that is articulated. This Committee therefor recommends that the statutes be amended to expressly provide that a representation that the receiver's conduct "may" be influenced by a valuable and improper consideration constitutes bribery. The concept already appears in section 200.45 and 200.50 (bribe giving and receiving for public office).

Law year's version of this proposal has been revised to include the crimes of Bribery in the First Degree and Bribe Receiving in the Second Degree. These were inadvertently omitted in the past.

IV. Proposed Amendment to the County Law

A. Review of Reimbursement to Counsel Representing Indigent Defendants . . . §722-b

The Committee recommends the resubmission of an amendment to section 722-b of the County Law to create a review mechanism to challenge the amount awarded as compensation to assigned counsel.

At the request of the Administrative Board, the Committee considered the development of a system of review of the amount of reimbursement given to assigned counsel in criminal cases. As a result of our study we recommend an amendment to section 722-b to provide a means whereby assigned counsel may challenge as inadequate the amount of compensation and expenses fixed by a court for legal services rendered to an indigent defendant. Our proposal also would permit the municipality charged with paying this compensation to challenge the amount as excessive.

Under the amendment, challenges shall be made by timely application to the appellate division of the judicial department embracing the county in which the legal services were rendered. No such application may be made, however, where it challenges an order of either the appellate division or the Court of Appeals which fixes compensation and expenses for assigned counsel in their respective courts.

There is now no statutory authority for judicial review of an order fixing compensation made under article 18-B of the County Law. When assigned counsel feels such compensation is inadequate or, conversely, when the municipality obligated to pay court ordered compensation feels the amount is excessive, the only recourse appears to be an appeal to the administrative authorities of the court system. *Matter of Werfel v. Agresta,* 36 N.Y.2d 624 (1975).

Our proposal supplies a specific statutory procedure for review of orders fixing compensation for assigned counsel. It gives the appellate divisions jurisdiction to conduct this review, recognizing that this responsibility will complement established authority of the appellate divisions to regulate the practice of law and oversee implementation of assigned counsel plans under article 18-B.

V. Conclusion

The Committee will continue to meet regularly to study and discuss all significant proposals affecting criminal law and procedure. We are now conducting an intensive review of the Proposed Code of Evidence, developing procedures for obtaining administrative search warrants, and drafting a comprehensive appendix of criminal court forms. We express our gratitude to the Judicial Conference, the Administrative Board and the Office of Court Administration for their support in achieving our shared objective of improving the criminal law.

Respectfully submitted,

THE ADVISORY COMMITTEE ON
CRIMINAL LAW AND PROCEDURE

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APPENDIX OF ACTS

AN ACT to amend the criminal procedure law, in relation to warrant of arrest

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions twenty-eight and twenty-nine of section 1.20 of the criminal procedure law are amended to read as follows:

28. ["Warrant] *(a) "Warrant of arrest" means a process of a criminal court, more fully defined in subdivisions three and four of section 120.10, directing a police officer to arrest a person.*

(b) "Local criminal court warrant of arrest" means a [process] *warrant of arrest* of a local criminal court [, more fully defined in section 120.10,] directing a police officer, *pursuant to article 120,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

[29.] *(c)* "Superior court warrant of arrest" means a [process] *warrant of arrest* of a superior court directing a police officer, *pursuant to subdivision three of section 210.10,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.

§2. Sections 120.10, 120.20, 120.30 and 120.40 of such law, section 120.40 as amended by chapter sixty-one of the laws of nineteen hundred seventy-three, are amended to read as follows:

§120.10 Warrant of arrest; definition, function, form and content. 1. A *warrant of arrest is a process of a criminal court directing a police officer to arrest a person.*

2. A local criminal court warrant of arrest is a [process] *warrant of arrest* issued by a local criminal court directing a police officer to arrest a defendant designated in an accusatory instrument filed with such court and to bring him before such court in connection with such instrument. The sole function of a *local criminal court* warrant of arrest is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced.

[2.] *3.* A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of an offense [charged in the underlying accusatory instrument] *for which the person is to be arrested,* and (d) the name of the [defendant] *person* to be arrested or, if such be unknown, any name or description by which he can be identified with reasonable certainty, and (e) the police officer or officers to whom the warrant is addressed, and (f) a direction that such police officer arrest [the defendant] *such person,* and *(g) where the warrant of arrest issued upon an accusatory instrument, a direction to* bring him before the issuing court.

[3.] *4.* A warrant of arrest may be addressed to *any police officer,* a classification of police officers, or to two or more classifications thereof, as well as to a designated individual police officer or officers. Multiple copies of such a warrant may be issued.

§120.20 Warrant of arrest; when issuable. 1. When a criminal action has been commenced in a local criminal court by the filing therewith of an accusatory instrument, other than a simplified [traffic] information, against a defendant who has not been arraigned upon such accusatory instrument and has not come under the control of the court with respect thereto, such court may, if such accusatory instrument is sufficient on its fact, issue a *local criminal court* warrant *of arrest* for such defendant's arrest.

2. (a) Where a person may be arrested for a crime pursuant to section 140.10, a police officer or a district attorney may apply to a criminal court for a warrant of arrest. Upon such application, if the criminal court is satisfied that an arrest of such person is authorized by section 140.10, the court may issue the warrant.

(b) An ex parte application for such warrant must be submitted to a judge of a criminal court and it must be in writing, subscribed and sworn to by the applicant, or be made orally by the applicant, under oath, to the issuing judge and recorded verbatim. The application must contain:

(i) The name of the court, the name and title of the applicant, and the date of the application;

(ii) A statement that an arrest of a named person (or, if such be unknown, any name or description by which such person can be identified with reasonable certainty) for a specified crime is authorized by section 140.10;

(iii) Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief. The applicant may also submit depositions of other persons containing allegations of fact, based upon personal knowledge or upon information and belief, supporting or tending to support those contained in the application. Allegations based upon information and belief shall include the source of such information and the grounds of such belief; and

(iv) A request that the court issue the warrant.

[2.] *3.* Even though such accusatory instrument *or application, as the case may be,* is sufficient on its face, the court may refuse to issue a warrant of arrest based thereon until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged. Upon such inquiry or examination, the court may examine, under oath or otherwise, any available person whom it believes may possess knowledge concerning the subject matter of the charge.

[3.] *4.* Notwithstanding the provisions of subdivision one, if a summons may be issued in lieu of a *local criminal court* warrant of arrest pursuant to section 130.20, and if the court is satisfied that the defendant will respond thereto, it may not issue a *local criminal court* warrant of arrest.

§120.30 Warrant of arrest; by what courts issuable and in what courts returnable. 1. A *warrant of arrest may be issued by a criminal court with geographical jurisdiction of a crime specified in the application submitted to it pursuant to subdivision two of section 120.20*

2. A local criminal court warrant of arrest may be issued only by the local criminal court with which the underlying accusatory instrument has been filed, and it may be made returnable in such issuing court only.

[2.] *3.* The particular local criminal court or courts with which any particular local criminal court accusatory instrument may be filed for the purpose of obtaining a *local criminal court* warrant of arrest are determined, generally, by the provisions of section 100.55. If, however, a particular accusatory instrument may pursuant to said section 100.55 be filed with a particular town court and such town court is not available at the time such instrument is sought to be filed and a warrant obtained, such accusatory instrument may be filed with the town court of any adjoining town of the same county. If such instrument may be filed pursuant to said section 100.55 with a particular village court and such village court is not available at the time, it may be filed with the town court of the town embracing such village, or if such town court is not available either, with the town court of any adjoining town of the same county.

§120.40 Warrant of arrest; attaching accusatory instrument to warrant of town court or village court. A town court or a village court which issues a *local criminal court* warrant of arrest may attach thereto a duplicate copy of the underlying accusatory instrument. If one or more duplicate copies of the warrant are issued, such court may attach as many copies of such accusatory instrument to copies of such warrant as it chooses. In any case where, pursuant to subdivision five of section 120.90, a defendant arrested upon such a warrant of arrest is brought before a local criminal court other than the town court or village court in which the warrant is returnable, a copy of the accusatory instrument constitutes a valid basis for arraignment as provided in subdivision one of section 170.15.

§3. Section 120.50 of such law is REPEALED.

§4. Section 120.90 of such law is amended by adding a new subdivision eight, to read as follows:

8. Notwithstanding the foregoing provisions of this section, the procedure following an arrest upon a warrant of arrest issued pursuant to subdivision two of section 120.20 shall be as provided in section 140.20. Further, within a reasonable time after the arrest of a person pursuant to such warrant, a police officer shall return the warrant to the issuing court and file with it a report of the time and place of the arrest and a report as to which of the procedures of section 140.20 were followed. The failure to file such report shall not be grounds for invalidating the arrest or the evidence derived from the arrest.

§5. This act shall take effect immediately.*

AN ACT to amend the criminal procedure law and the judiciary law, in relation to the adoption of forms for use in the criminal courts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new section 10.40 to read as follows:

§10.40 Chief administrator to prescribe forms. The chief administrator of the courts shall have the power to adopt, amend and rescind forms for the efficient and just administration of this chapter. A failure by any party to submit papers in compliance with forms authorized by this section shall not be grounds for that reason alone for denial or granting of any motion.

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to a motion to dismiss a prosecutor's information

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section 170.50 of the criminal procedure law, as amended by chapter five hundred thirty of the laws of nineteen hundred seventy-three, is amended to read as follows:

1. At any time after arraignment in a local criminal court upon a prosecutor's information filed at the direction of a grand jury and before entry of a plea of guilty thereto or commencement of a trial thereof, the [superior court which impaneled such grand jury or a superior court in the county embracing the] local criminal court wherein the prosecutor's information is filed may, upon motion of the defendant, dismiss such prosecutor's information or a count thereof upon the ground that:

(a) The evidence before the grand jury was not legally sufficient to support the charge; or

(b) The grand jury proceeding resulting in the filing of such prosecutor's information was defective.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become law.

AN ACT to amend the criminal procedure law, in relation to the immunity received by grand jury witnesses to make clear that no immunity results from the giving of nontestimonial identification evidence which the witness would have no constitutional privilege to withhold

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 190.40 of the criminal procedure law, paragraph (c) of subdivision two thereof as added by chapter four hundred fifty-four of the laws of nineteen hundred seventy-five, is amended to read as follows:

§190.40 Grand jury; witnesses, compulsion of evidence and immunity. 1. Every witness in a grand jury proceeding must give any evidence legally requested of him regardless of any protest or belief on his part that it may tend to incriminate him.

2. [A witness who gives evidence in a grand jury proceeding] *In a grand jury proceeding, a witness who is required to give evidence under subdivision one which he would otherwise be entitled to withhold by virtue of the privilege against self-incrimination,* receives immunity unless:

(a) He has effectively waived such immunity pursuant to section 190.45; or

(b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive.

[(c) The evidence given by the witness consists only of books, papers, records or other physical evidence of an enterprise, as defined in subdivision one of section 175.00 of the penal law, the production of which is required by a subpoena duces tecum, and the witness does not possess a privilege against self-incrimination with respect to the production of such evidence. Any further evidence given by the witness entitles the witness to immunity except as provided in subparagraph (a) and (b) of this subdivision.]

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to bills of particulars and repealing section 200.90 of the criminal procedure law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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* Note: CPL 120.50 is repealed by this act since its provisions are included within subdivision three of CPL 120.10.

Section 1. Section 200.90 of the criminal procedure law is REPEALED and a new section 200.90 is added to read as follows:

§200.90. 1. Upon a timely demand to produce a bill of particulars by a defendant against whom an indictment, superior court information, prosecutor's information or information is pending, the prosecutor shall serve upon the defendant or his attorney, and file with the court, a bill of particulars within twenty days of the service of the demand or as soon thereafter as is practicable. A demand for a bill of particulars shall be timely if made within thirty days after arraignment and before the commencement of trial. If the defendant is not represented by counsel, and has requested an adjournment to obtain counsel or to have counsel assigned, the thirty-day period shall commence, for purposes of a demand for a bill of particulars by the defendant, on the date counsel initially appears on his behalf. However, the court may direct compliance with a demand to produce a bill of particulars that, for good cause shown, could not have been made within the time specified.

2. A demand for a bill of particulars shall be in writing, shall request and specify items of factual information desired by the defendant which pertain to the charge, or the substance of defendant's conduct encompassed by the charge, and which are not recited in the indictment, and shall allege that the defendant cannot adequately prepare or conduct his defense without such information.

3. The prosecutor may refuse to produce a bill of particulars or any portion of a bill of particulars which he reasonably believes is not required to be produced pursuant to a demand for a bill of particulars. Such refusal shall be made in writing, which shall set forth the grounds of such belief as fully as possible, consistent with the objective of the refusal. The refusal shall be served upon the defendant and a copy shall be filed with the court.

4. In the event the prosecutor unjustifiably fails to furnish or refuses to furnish a bill of particulars or any portion of a bill of particulars within the twenty-day time period prescribed in subdivision one, the court may, upon motion of the defendant, order the prosecutor to file a bill of particulars with the court and to serve a copy thereof upon the defendant or his attorney.

5. A motion for a bill of particulars shall be in writing, shall request and specify items of factual information desired by the defendant which pertain to the charge, or the substance of defendant's conduct encompassed by the charge and which are not recited in the indictment, and shall allege that the defendant cannot adequately prepare or conduct his defense without such information. A motion by a defendant for a bill of particulars shall be made as prescribed in section 255.20.

6. In the event that a bill of particulars produced by the prosecutor pursuant to subdivision five is regarded as defective or insufficient by the defendant, the court may, upon timely motion, order the prosecutor to file an amended bill of particulars. Such motion shall be made pursuant to subdivision four and shall be timely if made within five days of receipt of the bill of particulars.

7. If the court is satisfied that any or all of the items of information requested are necessary to enable the defendant adequately to prepare or conduct his defense, it shall grant the motion as to every such necessary item and order the prosecutor to file and serve a bill of particulars accordingly. Nothing contained in this section, however, authorizes an order for a bill of particulars which requires the people to recite matters of evidence.

8. Upon an order granting a motion pursuant to this section, the district attorney must file with the court a bill of particulars, reciting every item of information designated in the order, and serve a copy thereof upon the defendant. Pending such filing and service, the proceedings are stayed.

9. At any time before trial the court must, and at any time during trial the court may, upon application of the people and with notice to the defendant and opportunity to be heard, order the amendment of a bill of particulars. Upon permitting such an amendment the court must, upon application of the defendant, order any adjournment of the proceedings or other appropriate action which may, by reason of such amendment, be necessary to accord the defendant adequate opportunity to defend.

§2. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.*

AN ACT to amend the criminal procedure law, in relation to the discovery of non-testimonial evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 240.40 of the criminal procedure law, as added by chapter four hundred twelve of the laws of nineteen hundred seventy-nine, is amended to read as follows:

2. Upon motion of the prosecutor, and subject to constitutional limitation, *(a)* the court in which an indictment, superior court information, prosecutor's information or information is pending [; (a)] must order discovery as to any property not disclosed upon a demand pursuant to section 240.30, if it finds that the defendant's refusal to disclose such material is not justified[;], and (b) *the court in which an indictment, superior court information, prosecutor's information, information, felony complaint or misdemeanor complaint is pending* may order the defendant to provide non-testimonial evidence. Such order may, among other things, require the defendant to:

(i) Appear in a line-up;

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* REPEAL NOTE: Section 200.90 of the Criminal Procedure Law, proposed to be repealed by this act, enables defendants in criminal proceedings to obtain bills of particulars only upon motion to the court. It would be replaced by a new section 200.90 which would provide for the filing of bills of particulars upon demand.

(ii) Speak for identification by witness or potential witness;

(iii) Be fingerprinted;

(iv) Pose for photographs not involving reenactment of an event;

(v) Permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof or a risk of serious physical injury thereto;

(vi) Provide specimens of his handwriting;

(vii) Submit to a reasonable physical or medical inspection of his body.

This subdivision shall not be construed to limit, expand, or otherwise affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument consistent with such rights as the defendant may derive from the constitution of this state or of the United States.

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to procedure for selection of the jury panel

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 270.15 of the criminal procedure law is amended to read as follows:

§270.15 Trial jury; examination of prospective jurors; challenges generally. 1. If no challenge to the panel is made as prescribed by section 270.10, or if such challenge is made and disallowed, the court must direct that the names of *not less than* twelve members of the panel be drawn and called as prescribed by the judiciary law. Such persons must take their places in the jury box and must be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. The court must permit both parties, commencing with the people, to examine the prospective jurors, individually or collectively, regarding their qualifications to serve as jurors. The scope of the examination is within the discretion of the court, and the court may disallow statements or questions by either party that are irrelevant to the examination or repetitious.

2. Upon the completion of such examination by both parties, each, commencing with the people, may challenge a prospective juror for cause, as prescribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence.

3. The court [must] *may* thereupon direct that the persons excluded be replaced in the jury box by an equal number from the panel *or, in its discretion with consent of the parties, direct that all sworn jurors be removed from the jury box and be replaced by such number as the court shall direct. Such sworn jurors who are removed from the jury box as provided herein shall be seated elsewhere in the court room separate and apart from the unsworn members of the panel. Upon the consent of both parties, the presence of the sworn jurors in the court room during the remainder of jury selection may be waived, in which case the sworn jurors shall be removed to the jury room.* The process of jury selection as prescribed herein shall continue until twelve persons are selected and sworn as trial jurors. The juror whose name was first drawn and called must be designated by the court as the foreman, and no special oath need be administered to him. If before twelve jurors are sworn, a juror already sworn becomes unable to serve by reason of illness or other incapacity, the court must discharge him and the selection of the trial jury must be completed in the manner prescribed in this section.

4. A challenge for cause of a prospective juror which is not made before he is sworn as a trial juror shall be deemed to have been waived, except that such a challenge based upon a ground not known to the challenging party at that time may be made at any time before a witness is sworn at the trial. If such challenge is allowed by the court, the juror shall be discharged and the selection of the trial jury shall be completed in the manner prescribed in this section, except that if alternate jurors have been sworn, the alternate juror whose name was first drawn and called shall take the place of the juror so discharged.

§2. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

AN ACT to amend the criminal procedure law, in relation to examination of prospective jurors

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions one and two of section 270.15 of the criminal procedure law are amended to read as follows:

1. If no challenge to the panel is made as prescribed by section 270.10, or if such challenge is made and disallowed, the court must direct that the names of

twelve members of the panel be drawn and called as prescribed by the judiciary law. Such persons must take their places in the jury box and must be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. The court must [permit both parties, commencing with the people, to] examine the prospective jurors, individual or collectively, regarding their qualifications to serve as jurors. *In conducting this examination, the court may ask the prospective jurors any questions submitted to the court in writing by either party prior to trial, or the court may permit counsel to ask such questions. The court may also seek any additional questions submitted by either party, orally or in writing, during the course of the examination, or the court may permit counsel to ask such questions.* The scope of the examination is within the discretion of the court, and the court may disallow [statements or] *questions* [by] *of* either party that are irrelevant to the examination or repetitious.

2. Upon the completion of such examination [by both parties], each *party,* commencing with the people, may challenge a prospective juror for cause, as prescribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence.

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to the number of peremptory challenges

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 270.25 of the criminal procedure law is amended to read as follows:

2. Each party must be allowed the following number of peremptory challenges:

(a) [Twenty] *Fifteen* for the regular jurors if the highest crime charged is a class A felony, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of twenty.*

(b) [Fifteen] *Twelve* for the regular jurors if the highest crime charged is a class B or class C felony, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of fifteen.*

(c) [Ten] *Eight* for the regular jurors in all other cases, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of ten.*

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

AN ACT to amend the criminal procedure law, in relation to a trial order of dismissal

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section 290.10 of the criminal procedure law is amended to read as follows:

1. At the conclusion of the people's case or at the conclusion of all the evidence, the court may, except as provided in subdivision two, upon motion of the defendant, *(a)* issue a "trial order of dismissal," dismissing any count of an indictment upon the ground that the trial evidence is not legally sufficient to establish the offense charged therein or any lesser included offense, *or (b) reserve decision on the motion until after the verdict has been rendered and accepted by the court. Where the court has reserved decision and the jury thereafter renders a verdict of guilty, the court shall proceed to determine the motion upon such evidence as it would have been authorized to consider upon the motion had the court not reserved decision. If the court determines that such motion should have been granted upon the ground specified in paragraph (a) herein, it shall enter an order both setting aside the verdict and dismissing any count of the indictment upon such ground.*

§2. Subdivision two of section 450.20 of such law is hereby amended to read as follows:

2. [A trial order of dismissal] *An order setting aside a verdict and dismissing an accusatory instrument or a count thereof,* entered pursuant to *paragraph (b) of subdivision one of* section 290.10 or 360.40;

§3. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to authorizing the temporary separation of a deliberating jury

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 310.10 of the criminal procedure law, as amended by chapter two hundred fourteen of the laws of nineteen hundred seventy-four, is amended to read as follows:

§310.10 Jury deliberation; requirement of; where conducted.

1. Following the court's charge, the jury must retire to deliberate upon its verdict in a place outside the courtroom. It must be provided with suitable accommodations therefor and must, *except as otherwise provided in subdivision two,* be continuously kept together under the supervision of a court officer or court officers. In the event such court officer or court officers are not available, the jury shall be under the supervision of an appropriate public servant or public servants. Except when so authorized by the court or when performing administerial duties with respect to the jurors, such court officers or public servants, as the case may be, may not speak to or communicate with them or permit any other person to do so.

2. At any time after the jury has commenced its deliberations, the court, with consent of the parties obtained in the absence of the jury, may declare the deliberations to be in recess and may thereupon direct the jury to suspend its deliberations and to separate for a reasonable period of time to be specified by the court, including Saturdays, Sundays and holidays. Before each recess, the court must admonish the jury as provided in section 270.40 and direct it to resume its deliberations when all twelve jurors have reassembled in the designated place at the termination of the declared recess.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

AN ACT to amend the criminal procedure law, in relation to superseding indictments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The title of section 450.20 of the criminal procedure law is amended to read as follows:

§450.20 Appeal by people to intermediate appellate court; in what cases authorized *as of right.*

§2. Article 450 of the criminal procedure law is amended to add a new section 450.25 to read as follows:

§450.25 Appeal by people to intermediate appellate court; in what cases authorized by permission.

If an appeal by the people is not authorized as of right pursuant to section 450.20, the people may appeal from an order of a criminal court denying a motion made pursuant to paragraph c of subdivision two of section 450.50 to authorize prosecution, provided that a certificate granting leave to appeal is issued pursuant to section 460.15.

§3. Subdivision two of section 450.50 of the criminal procedure law is amended to read as follows:

2. The taking of an appeal by the people, pursuant to subdivision eight of section 450.20, from an order suppressing evidence constitutes a bar to the prosecution of the accusatory instrument involving the evidence ordered suppressed, unless and until*: (a) the appeal is withdrawn with the permission of the intermediate appellate court, or (b)* such suppression order is reversed upon appeal and vacated, *or (c) new evidence is discovered which, at the time of submission or argument of the appeal, was not known by the People and could not have been known or produced with due diligence, and the evidence is such that had it been known or available, the prosecutor would not have been authorized to file the statement required by subdivision one; provided, however, that a prosecution may not be permitted pursuant to paragraph (c) unless, after providing defendant notice and an opportunity to be heard, the court in which the accusatory instrment was filed, determines that such newly discovered evidence authorizes such prosecution.*

§4. Subdivision one of section 450.90 of the criminal procedure law is amended to read as follows:

1. Provided that a certificate granting leave to appeal is issued pursuant to section 460.20, an appeal may, except as provided in subdivision two, be taken to the court of appeals by either the defendant or the people from any adverse or partially adverse order of an intermediate appellate court entered upon an appeal taken to such intermediate appellate court pursuant to section 450.10, 450.15, [or] 450.20, *or 450.25.* An order of an intermediate appellate court is adverse to the party who was the appellant in such court when it affirms the judgment, sentence or order appealed from, and is adverse to the party who was the respondent in such court when it reverses the judgment, sentence or order appealed from. An appellate court order which modifies a judgment or order appealed from is partially adverse to each party.

§5. Subdivision four of section 460.10 of the criminal procedure law is amended to read as follows:

4. An appeal by [a defendant] *an appellant* to an intermediate appellate court by permission, pursuant to section 450.15 *or 450.25,* is taken as follows:

(a) Within thirty days after service upon the [defendant] *appellant* of a copy of the order sought to be appealed, the [defendant] *appellant* must make application, pursuant to section 460.15, for a certificate granting leave to appeal to the intermediate appellate court.

(b) If such application is granted and such certificate is issued, the [defendant] *appellant,* within fifteen days after issuance thereof, must file with the criminal court in which the order sought to be appealed was rendered the certificate granting leave to appeal together with a written notice of appeal, or if the appeal is from a local criminal court in a case in which the underlying proceedings were not recorded by a court stenographer, either (i) an affidavit of errors, or (ii) a notice of appeal. In all other respects, the appeal shall be taken as provided in subdivisions one, two and three.

6. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to certificates granting leave to appeal to the court of appeals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision two of section 460.20 of the criminal procedure law is amended to read as follows:

(a) Where the appeal sought is from an order of the appellate division, the certificate may be issued by (i) a judge of the court of appeals or (ii) a justice of the appellate division [of the department which entered the order sought to be appealed] *who participated in the determination of the order sought to be appealed.*

§2. This act shall take effect immediately, and shall apply to all cases in which the order of the appellate division sought to be appealed was entered on or after such effective date.

AN ACT to amend the criminal procedure law, in relation to a stay of judgment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 460.50 of the criminal procedure law is amended by adding a new subdivision six to read as follows:

6. Upon application of a defendant who has been granted a certificate granting leave to appeal pursuant to section 460.15 of this chapter, and in accordance with the procedures set forth in subdivisions three, four and five of this section, the intermediate appellate court may issue an order both (a) staying or suspending the execution of the judgment pending the determination of the appeal, and (b) either releasing the defendant on his own recognizance or fixing bail pursuant to the provisions of article five hundred thirty. That phase of the order staying or suspending execution of the judgment does not become effective unless and until the defendant is released, either on his own recognizance or upon the posting of bail.

§2. Subdivisions one and four of section 460.60 of the criminal procedure law are amended to read as follows:

1. (a) A judge who, pursuant to section 460.20 of this chapter, has received an application for a certificate granting a defendant leave to appeal to the court of appeals from an order of an intermediate appellate court affirming or modifying a judgment including a sentence of imprisonment, [or] a sentence of imprisonment, *or an order appealed pursuant to section 450.15 of this chapter,* of a criminal court, may, upon application of such defendant-appellant issue an order both (i) staying or suspending the execution of the judgment pending the determination of the application for leave of appeal, and, if that application is granted, staying or suspending the execution of the judgment pending the determination of the appeal, and (ii) either releasing the defendant on his own recognizance or continuing bail as previously determined or fixing bail pursuant to the provisions of article five hundred thirty. Such an order is effective immediately and that phase of the order staying or suspending execution of the judgment does not become effective unless and until the defendant is released, either on his own recognizance or upon the posting of bail.

(b) If the application for leave to appeal is denied, the stay [of] *or* suspension pending the application automatically terminates upon the signing of the certificate denying leave. Upon such termination, the certificate denying leave must be sent to the criminal court in which the original judgment was entered, and the latter must proceed in the manner provided in subdivision five of section 460.50 of this chapter.

4. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the court of appeals, upon affirmance of the judgment *or order,* must, by appropriate certificate, remit the case to the criminal court in which [such] *the* judgment was entered, and the latter must proceed in the manner provided in subdivision five of section 460.50 of this chapter.

§3. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to conditional examination of witnesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 660.20 of the criminal procedure law is amended to read as follows:

§660.20. Examination of witnesses conditionally; grounds for order. An order directing examination of a witness conditionally must be based upon the [ground] *grounds* that there is reasonable cause to believe that such witness [: 1. Possesses] *possesses* information material to the criminal action or proceeding with issue[;], and *that:*

[2. Will] *1. The witness will* not be amenable or responsive to legal process or available as a witness at a time when his testimony will be sought, either because he is [:

(a) About] *about* to leave the state and not return for a substantial period of time[;] or *he is*

[(b) Physically] *physically* ill or incapacitated*; or*

2. there has been an attempt to induce such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at such action or proceeding.

§2. Subdivision one of section 670.10 of such law, as amended by chapter two hundred ninety-one of the laws of nineteen hundred eighty, is amended to read as follows:

1. Under circumstances prescribed in this article, testimony given by a witness at (a) a *hearing or* trial of an accusatory instrument, or (b) [a hearing upon a felony complaint conducted pursuant to section 180.60, or (c)] an examination of such witness conditionally, conducted pursuant to article six hundred sixty, may, where otherwise admissible, be received into evidence at a subsequent proceeding in or relating to the action involved when at the time of such subsequent proceeding the witness is unable to attend the same by reason of death, illness or incapacity, or cannot with due diligence be found, or is outside the state or in federal custody and cannot with due diligence be brought before the court. Upon being received into evidence, such testimony may be read and any videotape or photographic recording thereof played. Where any recording is received into evidence, the stenographic transcript of that examination shall also be received.

§3. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to an identification order

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new article six hundred ninety-five, to read as follows:

Article 695
Identification Order

§*695.05 Identification order; definitions.*
§*695.10 Identification order; when issuable.*
§*695.15 Identification order; application.*
§*695.20 Identification order; form and content.*
§*695.25 Identification order; service.*
§*695.30 Identification order; failure to comply.*
§*695.35 Identification order; motion to vacate; modification.*
§*695.40 Identification order; implementation.*
§*695.45 Identification order; return.*
§*695.50 Identification order; confidentiality.*

§*695.05. Identification orders; definitions. As used in this article, the following terms have the following meanings:*

1. "Identification order" means a criminal court order and process directing a qualified person to conduct an identification procedure.

2. "Identification procedure" means a procedure to obtain:

(a) identification by fingerprints, palm prints, footprints, body measurements, dental impressions, or other reasonable body surface examinations;

(b) specimens or samples of blood, urine, saliva, hair or fingernails, or other bodily substances that can be obtained by comparable methods;

(c) identification material that may be on the surface of the body or under fingernails or that can be obtained by comparable methods; or

(d) witness identification through lineups, photographs, voice samples or handwriting exemplars.

3. "Applicant" means a prosecutor.

4. "Qualified person" means a person qualified by professional training to assure the accuracy of the identification procedure and to prevent injury to the subject of the procedure.

§*695.10. Identification order; when issuable. A criminal court may issue an identification order upon an application made in conformity with this article, where there are:*

1. reasonable grounds to believe that a crime specifically designated in the application has been committed; and

2. reasonable grounds to believe that the results of the identification procedure will be of material aid in the investigation or prosecution of the designated crime.

§*695.15. Identification order; application. 1. The application for an identification order may be made ex parte. It must be submitted to a judge of a criminal court, and it must either be in writing, subscribed and sworn to by the applicant, or be made orally by the applicant, under oath, before the issuing judge and recorded verbatim.*

2. The application must contain:

(a) the name of the court, the name and title of the applicant and the name or description of the person to be subject to the identification order;

(b) the identification procedure to be conducted, the methods to be used, the approximate length of time of such procedures and the name of the qualified person to conduct such procedure;

(c) the time when and the place where the applicant requests that the identification procedures be conducted; and

(d) a full and complete statement of the facts and circumstances relied upon by the applicant to justify the issuance of an identification order pursuant to section 695.10. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated. The applicant may also submit sworn statements of other persons containing allegations of fact supporting or tending to support those contained in the application. Where an accusatory instrument has been filed against the person sought to be subjected to the identification procedure, such instrument may be appended to the application and shall be a sufficient basis for finding that there is probable cause to believe that the designated crime has been committed.

3. An application for an identification order may be made at any time before or after arrest of the person to be subjected to the identification procedure, or before or after the commencement of a criminal action or proceeding against such person; provided, however, no provision of this article shall be construed to abrogate, limit or condition any other lawful means for obtaining identification evidence.

4. In determining an application, the court may examine, under oath, any person whom it believes may possess pertinent information. Any such examination must either be recorded or summarized on the record by the court.

§695.20. Identification order; form and content. An identification order must contain:

1. the name and title of the applicant, the subscription and title of the issuing judge, and the date of issuance;

2. the name of the qualified person who shall conduct the identification procedure and to whom the order shall be addressed;

3. the name and description of the person who is the subject of the identification order;

4. a statement that the presence of such person is required for the purpose of conducting one or more specified identification procedures in order to obtain evidence that will aid in the investigation or prosecution of one or more specified crimes;

5. the time and place of the required appearance of such person;

6. the identification procedures to be conducted, the methods to be used, and the approximate length of time such procedures are expected to take;

7. a direction that such person shall not alter the identifying characteristics covered by the order or destroy any evidence sought to be obtained;

8. a direction that such person will not be subjected to investigative questioning and that he is under no obligation to make any statement during the period of his appearance except for that required for voice identification;

9. a statement that such person may request the person who shall conduct the identification procedure to make a reasonable modification of the order with respect to time, place or method of conducting the identification procedure;

10. a statement that such person may apply to the issuing judge to modify the order with respect to the time, place or method of conducting the identification procedure, or to vacate the identification order where there are insufficient grounds for issuance or where the order is otherwise improperly issued;

11. a statement that such person may have counsel, that counsel may be present during the identification procedure, and that if he is unable to afford to provide counsel, an attorney shall be provided at public expense;

12. a direction that the identification order and all other papers and proceedings relating thereto are confidential and shall not be disclosed to the public; and

13. a statement that a failure to comply with the identification order may be punishable as a contempt of court.

§695.25. Identification order; service. 1. An identification order shall be served upon the person named or described therein by delivery of a copy to him personally. The application also shall be served upon such person with the identification order unless the issuing judge shall for good cause otherwise direct.

2. Except as provided by subdivision three, the identification order shall be served upon the person named or described therein within five days from the date of issuance, excluding Saturdays, Sundays, and legal holidays, between the hours of eight o'clock a.m. and eight o'clock p.m.

3. Upon a finding by the issuing judge of reasonable grounds to believe that there exist exigent circumstances, including, but not limited to, reasonable grounds to believe that the person named or described in the affidavit may either flee or alter the identifying characteristics covered by the order or destroy any evidence sought to be obtained, or that the order cannot be served at such time, or cannot be implemented if served at such time, the issuing judge may, by appropriate provision in the order, authorize its service at times other than those specified herein.

4. If the order is not served within the specified period, the issuing judge may, upon a showing of good cause, extend for five additional days, excluding Saturdays, Sundays, and legal holidays, the period within which the order is to be served.

§695.30. Identification order; failure to comply. Failure

to comply with an identification order may be punishable as contempt of court or as otherwise provided by law.

§695.35. Identification order; motion to vacate, modification. 1. By motion of the person to be subjected to the identification procedure, the issuing judge may vacate the identification order if he finds that there were insufficient grounds for issuance or that the order was otherwise improperly issued, or that such evidence may practicably be obtained from a law enforcement agency or other public official or agency. Notwithstanding any other provision of law, no person may refuse to participate in an identification procedure on the ground that the results of the procedure may tend to incriminate him, and such person may be compelled to give such evidence without receiving immunity therefor.

2. The issuing authority may modify an identification order with respect to the time, place or method of conducting identification procedures whenever it appears reasonable under the circumstances to do so.

§695.40 Identification order; implementation. 1. Except as provided by subdivision two, the identification order shall be implemented no less than five and no more than fifteen days from the date of issuance, excluding Saturdays, Sundarys, and legal holidays, between the hours of eight o'clock a.m. and eight o'clock p.m.

2. Except as provided by subdivision three, upon a finding by the issuing judge of reasonable grounds to believe that there exist exigent circumstances, including but not limited to, reasonable grounds to believe that the person to be subject to the identification procedure may, upon service of order, either flee or alter the identifying characteristics covered by the order or destroy any evidence sought to be obtained, or that delay will adversely affect the probative value of the evidence sought, or that the order cannot be effectively implemented at such time, the issuing judge may, by appropriate provision in the order, authorize its implementation at times other than those specified herein.

3. Upon a finding by the issuing judge of reasonable grounds to believe that any delay in implementation of the identification order would result in the loss of the evidence sought to be obtained, the issuing judge may, by appropriate provision in the order, direct its implementation immediately upon service of the identification order. In such instance, the identification order shall not include therein the statements specified in subdivisions ten and eleven of section 695.20.

4. No person shall be detained pursuant to an identification order longer than is reasonably necessary to conduct the specified identification procedures.

5. No person while detained pursuant to an identification order shall be subject to investigative questioning. A law enforcement officer conducting the identification procedures shall advise the person that he may not be so questioned, that he is not obliged to say anything except as may be required for voice identification, and that any volunteered statements may be used in evidence against him.

6. Notwithstanding any other provision of law, upon the written request or consent of the person subject to the identification order, the qualified person to whom the order is addressed may change the time, place, or method of conducting the identification procedure.

§695.45. Identification order; return. 1. If an identification order is not implemented within the time specified therein, the person who applied for the order shall return the order to the issuing judge on or before the date so specified, together with a report of the reasons why it was not implemented.

2. An officer who has conducted an identification procedure authorized by an identification order or, if such officer is unavailable, another officer acting in his behalf, shall, as soon as practicable, return the order to the issuing judge and a description of the evidence obtained.

§695.50. Identification order; confidentiality. All papers and proceedings relating to the application for the identification order, the identification order, the return, a motion to vacate or modify the identification order, or a motion to compel compliance with the identification order shall be kept confidential and not disclosed to the public by any person. Upon application of either the person named as the subject of the identification order or the applicant, the court may, if the interests of justice dictate, order disclosure of any such papers and proceedings. Decisions and orders of a court made in the course of any such proceedings may be published, provided their form and content do not identify the subject of the identification application and order.

§2. Subdivision two of section 240.40 of such law, as added by chapter four hundred twelve of the laws of nineteen hundred twelve of the laws of nineteen hundred seventy-nine, is amended to read as follows:

2. Upon motion of the prosecutor, and subject to constitutional limitation, the court in which an indictment, superior court information, prosecutor's information or information is pending[; (a)] must order discovery as to any property not disclosed upon a demand pursuant to section 240.30, if it finds that the defendant's refusal to disclose such material is not justified[; and (b) may order the defendant to provide non-testimonial evidence. Such order may, among other things, require the defendant to:

(i) Appear in a line-up.

(ii) Speak for identification by witness or potential witness;

(iii) Be fingerprinted;

(iv) Pose for photographs not involving reenactment of an event;

(v) Permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof or a risk of serious physical injury thereto;

(vi) Provide specimens of his handwriting;

(vii) Submit to a reasonable physical or medical inspection of his body.

This subdivision shall not be construed to limit, expand, or otherwise affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument consistent with such rights as the defendant may derive from the constitution of this state or of the United States].

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

AN ACT to amend the criminal procedure law, in relation to a hearing upon a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1. Subdivision three of section 710.40 of the criminal procedure law, as amended by chapter two hundred seventy-three of the laws of nineteen hundred seventy-seven, is amended to read as follows:

3. When the motion is made before trial, the trial may not be commenced until determination of the motion *unless the court rules that a hearing to be held upon the motion shall be conducted during the trial.*

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision three of section 710.60 of the criminal procedure law is amended to read as follows:

(b) The sworn allegations of fact do not as a matter of law support the ground alleged[; except that this paragraph does not apply where the motion is based upon the ground specified in subdivision three of section 710.20].

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to a waiver of appeal of a denial of a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 710.70 of the criminal procedure law is amended to read as follows:

2. An order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty, *unless, in entering a plea of guilty, the defendant shall, in open court, waive this right to such review.*

§2. This act shall take effect immediately.

AN ACT to amend the criminal procedure law, in relation to grand jury minutes transferred from a criminal court to the family court

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 725.10 of the criminal procedure law, as amended by chapter four hundred eleven of the laws of nineteen hundred seventy-nine, is renumbered to be subdivision three and a new subdivision two is inserted in such section to read as follows:

2. Where the minutes of a grand jury proceeding are transferred pursuant to an order of removal, such minutes shall continue to be subject to the requirement of secrecy to the same extent as would apply in a criminal court and the family court is authorized to make any disclosure that a criminal court is authorized to make.

§2. This act shall take effect immediately.

AN ACT to amend the penal law and the executive law, relating to the place of imprisonment of juvenile offenders

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision four of section 70.05 of the penal law is repealed.

§2. Section 70.20 of such law, as amended by chapter two hundred sixty-eight of the laws of nineteen hundred seventy-eight, is amended to read as follows:

Section 70.20 Place of Imprisonment.

1. Indeterminate sentence. *Except as provided in subdivision four of this section,* [When] *when* an indeterminate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of

the state department of correction for the term of his sentence and until released in accordance with the law.

2. Definite sentence. *Except as provided in subdivision four of this section,* [When] *when* a definite sentence of imprisonment is imposed, the court shall commit the defendant to the county or regional correctional institution for the term of his sentence and until released in accordance with the law.

3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of correctional services if the additional term or terms are indeterminate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or until released in accordance with law. If such additional term or terms, imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section.

4. Notwithstanding any other provision of law to the contrary, a juvenile offender, or a juvenile offender who is adjudicated a youthful offender and given an indeterminate or a definite sentence, shall be committed to the custody of the director of the division for youth who shall arrange for the confinement of such offender in secure facilities of the division. The release or transfer of such offenders from the division for youth shall be governed by section five hundred fifteen-b of the executive law. *

§3. Subdivision one of section five hundred fifteen-b of the executive law, as added by chapter four hundred eighty-one of the laws of nineteen hundred seventy-eight, is amended to read as follows:

1. The division for youth shall maintain secure facilities for the care and confinement of juvenile offenders committed [pursuant to section 70.05] *for an interdeterminate or definite sentence pursuant to the sentencing provisions* of the penal law. Such facilities shall provide appropriate services to juvenile offenders including but not limited to residential care, educational and vocational training, physical and mental health services, and employment counseling.

§4. This act shall take effect on the thirtieth day next succeeding the date on which it shall have become a law.*

AN ACT to amend the penal law, in relation to bribery and related offenses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 180.05 of the penal law, as amended by chapter four hundred fifty-eight of the laws of nineteen hundred seventy-six, is amended to read as follows:

§180.05. Commercial bribe receiving in the second degree. [An employee, agent, or fiduciary] *A person* is guilty of commercial bribe receiving in the second degree when, [without] *being an employee, agent or fiduciary, and not having* the consent of his employer or principal, he solicits, accepts or agrees to accept any benefit from another person upon [an] *a representation,* agreement or understanding that such benefit will *or may* influence his conduct in relation to his employer's or principal's affairs.

Commercial bribe receiving in the second degree is a class B misdemeanor.

§2. Section 180.08 of such law, as added by chapter four hundred fifty-eight of the laws of nineteen hundred seventy-six, is amended to read as follows:

§180.08 Commercial bribe receiving in the first degree. [An employee, agent or fiduciary] *A person* is guilty of commercial bribe receiving in the first degree when, [without] *being an employee, agent or fiduciary, and not having* the consent of his employer or principal, he solicits, accepts or agrees to accept any benefit from another person upon [an] *a representation*, agreement or understanding that such benefit will *or may* influence his conduct in relation to his employer's or principal's affairs, and when the value of the benefit solicited, accepted or agreed to be accepted exceeds one thousand dollars.

Commercial bribe receiving in the first degree is a class A misdemeanor.

§3. Section 180.45 of such law is amended to read as follows:

§180.45 Sports bribe receiving. A person is guilty of sports bribe receiving when:

1. Being a sports participant, he solicits, accepts or agrees to accept any benefit from another person upon [an] *a representation*, agreement or understanding that he will *or may* thereby be influenced not to give his best efforts in a sports contest; or

2. Being a sports official, he solicits, accepts or agrees to accept any benefit from another person upon [an] *a representation*, agreement or understanding that he will *or may* perform his duties improperly.

Sports bribe receiving is a class E felony.

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* REPEAL NOTE: Subdivision four of section 70.05 of the Penal Law, proposed to be repealed by this act, prescribes the place of imprisonment for juvenile offenders. It would be replaced by a new subdivision four of section 70.20 applicable to juvenile offenders and to juvenile offenders adjudicated youthful offenders.

§4. Section 200.00 of such law, as amended by chapter two hundred seventy-six of the laws of nineteen hundred seventy-three, is amended to read as follows:

§200.00 Bribery in the second degree. A person is guilty of bribery in the second degree when, *with intent to influence a public servant with respect to any vote, opinion, judgment, action, decision or exercise of discretion as such public servant,* he confers, or offers or agrees to confer, any benefit upon [a public servant upon an agreement or understanding that such public servant's vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced] *him.*

Bribery in the second degree is a class D felony.

§5. Section 200.04 of such law, as added by chapter two hundred seventy-six of the laws of nineteen hundred seventy-three, is amended to read as follows:

§200.04 Bribery in the first degree. A person is guilty of bribery in the first degree when, *with intent to influence a public servant with respect to any vote, opinion, judgment, action, decision or exercise of discretion as such public servant in the investigation, arrest, detention, prosecution or incarceration of any person for the commission or alleged commission of a class A felony defined in article two hundred twenty of the penal law or an attempt to commit any such class A felony,* he confers, or offers or agrees to confer, any benefit upon [a public servant upon an agreement or understanding that such public servant's vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced in the investigation, arrest, detention, prosecution or incarceration of any person for the commission or alleged commission of a class A felony defined in article two hundred twenty of the penal law or an attempt to commit any such class A felony] *him.*

Bribery in the first degree is a class B felony.

§6. Section 200.10 of such law, as amended by chapter two hundred seventy-six of the laws of nineteen hundred seventy-three, is amended to read as follows:

§200.10 Bribe receiving in the second degree. A [public servant] *person* is guilty of bribe receiving in the second degree when, *being a public servant,* he solicits, accepts or agrees to accept [any] *a* benefit from another person upon [an] *a representation,* agreement or understanding that [his vote, opinion, judgment, action, decision or exercise of discretion as a public servant] *he* will *or may* thereby be influenced *in respect to any vote, opinion, judgment, action, decision, or exercise of discretion as such public servant.*

Bribe receiving in the second degree is a class D felony.

§7. Section 200.12 of such law, as added by chapter two hundred seventy-six of the laws of nineteen hundred seventy-three, is amended to read as follows:

§200.12 Bribe receiving in the first degree. A [public servant] *person* is guilty of bribe receiving in the first degree when, *being a public servant,* he solicits, accepts or agrees to accept [any] *a* benefit from another person upon [an] *a representation,* agreement or understanding that [his vote, opinion, judgment, action, decision or exercise of discretion as a public servant] *he* will *or may* thereby be influenced *in respect to any vote, opinion, judgment, action, decision, or exercise of discretion as such public servant* in the investigation, arrest, detention, prosecution or incarceration of any person for the commission or alleged commission of a class A felony defined in article two hundred twenty of the penal law or an attempt to commit any such class A felony.

Bribe receiving in the first degree is a class B felony.

§8. Section 200.45 of such law is amended to read as follows:

§200.45 Bribe giving for public office. A person is guilty of bribe giving for public office when, *with intent to achieve, promote or advance the appointment of a person to public office, or the designation or nomination of a person as a candidate for public office,* he confers, or offers or agrees to confer, any money or other property upon a public servant or a party officer [upon an agreement or understanding that some person will or may be appointed to a public office or designated or nominated as a candidate for public office].

Bribe giving for public office is a class D felony.

§9. Section 200.50 of such law is amended to read as follows:

§200.50 Bribe receiving for public office. A [public servant or a party officer] *person* is guilty of bribe receiving for public office when, *being a public servant or a party officer,* he solicits, accepts or agrees to accept any money or other property from another person upon [an] *a representation,* agreement or understanding that some person will or may be appointed to a public office or designated or nominated as a candidate for public office.

Bribe receiving for public office is a class D felony.

§10. Section 215.00 of such law is amended to read as follows:

§215.00 Bribing a witness. A person is guilty of bribing a witness when he confers, or offers or agrees to confer, any benefit upon a witness or a person about to be called as a witness in any action or proceeding [upon an agreement or understanding] *with intent* that (a) the testimony of such witness *or person* will thereby be influenced, or (b) such witness *or person* will absent himself from, or otherwise avoid or seek to avoid appearing or testifying at, such action or proceeding.

Bribing a witness is a class D felony.

§11. Section 215.05 of such law is amended to read as follows:

§215.05 Bribe receiving by a witness. A [witness or a person about to be called as a witness in any action or proceeding] *person* is guilty of bribe receiving by a witness when, *being a witness or about to be called as a witness in an action or proceeding,* he solicits, accepts or agrees to accept any benefit from another person upon [an] *a representation,* agreement or understanding that (a) his testimony will *or may* thereby be influenced, or (b) he will *or may* absent himself from, or otherwise avoid or seek to avoid appearing or testifying at, such action or proceeding.

Bribe receiving by a witness is a class D felony.

§12. Section 215.15 of such law is amended to read as follows:

§215.15 Bribing a juror. A person is guilty of bribing a juror when he confers, or offers or agrees to confer, any benefit upon a juror [upon an agreement or understanding] *with intent* that such juror's vote, opinion, judgment, decision or other action as a juror will thereby be influenced.

Bribing a juror is a class D felony.

§13. Section 215.20 of such law is amended to read as follows:

§215.20 Bribe receiving by a juror. A person is guilty of bribe receiving by a juror when, *being a juror,* he solicits, accepts or agrees to accept any benefit from another person upon [an] *a representation,* agreement or understanding that his vote, opinion, judgment, decision or other action as a juror will *or may* be influenced.

Bribe receiving by a juror is a class D felony.

§14. Subdivision one of section 215.45 of such law is amended to read as follows:

1. A person is guilty of compounding a crime when:

(a) He solicits, accepts or agrees to accept any benefit upon [an] *a representation,* agreement or understanding that he will *or may* refrain from initiating a prosecution for a crime; or

(b) He confers, or offers or agrees to confer, any benefit upon another person [upon an agreement or understanding that] *with the intent that* such other person will refrain from initiating a prosecution for a crime.

§15. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

AN ACT to amend the county law, in relation to compensation and reimbursement of counsel representing indigent defendants

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred twenty-two-b of the county law, as amended by chapter seven hundred of the laws of nineteen hundred seventy-eight, is amended to read as follows:

§722-b. Compensation and reimbursement for representation. All counsel assigned in accordance with a plan of a bar association conforming to the requirements of section seven hundred twenty-two whereby the services of private counsel are rotated and coordinated by an administrator shall at the conclusion of the representation receive compensation at a rate not exceeding twenty-five dollars per hour for time expended in court or before a magistrate, judge or justice, and fifteen dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred. Where a defendant is charged with a crime which may be punishable by death, compensation shall not exceed one thousand five hundred dollars where one counsel has been assigned, and shall not exceed two thousand dollars where two or more counsel have been assigned. Where a defendant is charged with one or more other felonies, compensation shall not exceed seven hundred fifty dollars. Where a defendant is charged with one or more other crimes, compensation shall not exceed five hundred dollars. For representation pursuant to the provisions of section two hundred sixty-two of the family court act, compensation shall not exceed five hundred dollars. For representation upon the hearing of a motion for a writ of error coram nobis or a motion to vacate judgment or set aside sentence made pursuant to article four hundred forty of the criminal procedure law, compensation shall not exceed five hundred dollars. For representation in the court of appeals on an appeal from a judgment of death, compensation shall not exceed one thousand five hundred dollars where one counsel has been assigned, and shall not exceed two thousand dollars where two or more counsel have been assigned. For representation in an appellate court on an appeal from a judgment of conviction for one or more other felonies, compensation shall not exceed seven hundred fifty dollars. For representation in an appellate court on an appeal in any other criminal action or proceeding, or on any appeal described in section eleven hundred twenty of the family court act or section four hundred seven of the surrogate's court procedure act, compensation shall not exceed five hundred dollars.

For representation on an appeal, compensation and reimbursement shall be fixed by the appellate court. For all other representation, compensation and reimbursement shall be fixed by the court where judgment of conviction or acquittal or order of dismissal was entered. In extraordinary circumstances the trial court may provide for compensation in excess of the foregoing limits and for payment of compensation and reimbursement for expenses before the completion of the representation.

Each claim for compensation and reimbursement shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source.

Where the amount of compensation and reimbursement for counsel assigned pursuant to this article has been fixed by a court other than the appellate division or the court of appeals, such assigned counsel or the county attorney for the county responsible for paying such amount or, where the city of New York is responsible for paying such amount, the corporation counsel of such city may, within ten days after receiving notice thereof, apply to the appellate division in the judicial department embracing the county in which the services were rendered for modification of this amount on grounds that it is inadequate or excessive, as the case may be.

No counsel assigned hereunder shall seek or accept any fee for representing the party for whom he is assigned without approval of the court as herein provided.

§2. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, no party may make application to the appellate division to modify the amount of compensation and reimbursement fixed by the court for assigned counsel, pursuant to section seven hundred twenty-two-b of the county law as amended by section one of this act, unless that party first received notice on or after such effective date that such amount had been fixed by the court.

Annual Report
to the
Judicial Conference
and the
Chief Administrator of the Courts of the State of New York

by the
Family Court Advisory and Rules Committee
January 1981

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The Family Court Advisory and Rules Committee, designated and appointed pursuant to section 212 of the Family Court Act and section 1 (b) and (x) of the Chief Judge's Administrative Delegation effective April 1, 1978, continued during the year 1980 to review legislation affecting Family Court proceedings, to draft rules affecting Family Court proceedings for consideration by the Chief Judge and the Chief Administrator of the Courts, and to review and to bring up to date the official Family Court forms, as required.

The members of the Committee were Family Court Judges Donald J. Corbett, Jr., who served as Chairman, Arthur J. Abrams, Gene L. Catena, Daniel J. Donahoe, Hugh Ross Elwyn, William L. Kellick, Jr., Shirley Wohl Kram, Howard A. Levine (who has been elected to the Supreme Court), Saul Moskoff, Paul F. Murphy (now deceased), Richard M. Palmer, Aileen Haas Schwartz, Jack Turret, and Supreme Court Justices Robert H. Wagner and Joseph B. Williams. Non-voting members of the Committee were Richard J. Comiskey, Esq., and William G. O'Brien, Esq. Frank Boccio, Esq. served as consultant. The two vacancies which have resulted have been filled by the appointments of Judges Alfred J. Weiner and Edward J. McLaughlin.

As indicated in the 1979 report of the Committee to the Judicial Conference, a major bill before the Legislature last year was a proposed comprehensive Code of Juvenile Procedure introduced in an attempt to codify procedure in juvenile delinquency proceedings in a manner similar to the Criminal Procedure Law. In addition to line-by-line analyses of the several drafts of the bill prior to introduction, the Committee advised and helped prepare a formal memorandum of opposition. The bill (S. 7611; A. 9000) did not pass. Since that time, the New York State Law Revision Commission has drafted a general Proposed Code of Evidence which is expected, after public hearings, to be introduced as a bill. The Family Court Advisory and Rules Committee will, as has the CPL and CPLR Committees, review this latest proposal not only for the provisions in themselves and their likely impact on Family Court proceedings but also to determine how, if at all, the provisions relate to the proposed Juvenile Delinquency Code.

As a result of Chapter 50 of the Laws of 1979, a Temporary State Commission to Recodify the Family Court Act was created to "examine, evaluate and make recommendations concerning the effectiveness of the family court in fulfilling its adjudicatory role in the care and protection of the young and the preservation of the family." Recognizing the far-reaching impact which the work of this Commission is likely to have upon family law, the Committee is in the process of preparing a list of recommended areas for study to be considered by the Chief Administrator of the Courts for forwarding to the Commission. In addition, as reports and recommendations are formulated by the Commission or public hearings are held, the Committee will be analyzing and preparing possible comments. Judge Corbett, Chairman of the Family Court Advisory and Rules Committee, and Judge Levine, a member until recently, are serving as appointed members of the Commission.

Another major portion of the Committee's time in 1980, continuing into 1981, has been devoted to an examination of the use of hearing examiners in support proceedings in certain Family Courts in the State of New York. The hearing examiner system was instituted in January 1978, pursuant to Chapter 388 of the Laws of 1977, which added a new section 439 to the Family Court Act. This statute was drafted by the Office of Court Administration in consultation with the Family Court Advisory and Rules Committee, with the intention that a review of its implementation would be undertaken approximately one year after it became operational. Also, the review was undertaken as part of the continuing responsibility of the Committee for the drafting and re-examination of Family Court rules. Part 34 of the Rules of the Chief Judge of the Court of Appeals pertains to hearing examiners.

Since its inception, the use of hearing examiners has been authorized in twelve counties. It is in use in nine counties, two, Orange and Rockland, having just recently received the authorization and one, Oneida, not yet having submitted a name for actual designation.

In order to collect information upon which to base recommendations, the Committee designed a written questionnaire which was distributed by Chief Administrative Judge Evans early in 1980 to the fifty-nine Family Court judges sitting in counties in which the use of hearing examiners was then authorized (ten counties). Twenty-eight questionnaires were returned. The responses have been analyzed under the direction of Judge Aileen Haas Schwartz, who chairs the Subcommittee on Rules, and certain areas have emerged for Committee discussion. The Committee has not yet completed its analysis and formulation of recommendations, but it is anticipated that a report to the Chief Administrator of the Courts will be ready for submission shortly. The recommendations are expected to include possible rule, legislative and administrative proposals.

Legislation

The Committee, under the direction of Judge Howard A. Levine who chaired the Subcommittee on Legislation, continued its legislative review of all bills introduced in the Legislature affecting Family Court proceedings and family law. In the past year, fifty-one memoranda commenting on legislation were filed in the Legislature.

In addition, the members of the Committee assisted the Office of Court Administration in the drafting of six bills for introduction at the request of that Office. Of these, two measures were enacted into law in 1980. They are as follows:

Chapter 178 This chapter amends section 469 of the Family Court Act to extend application of section 421 relating to venue to proceedings brought in Family Court to modify or enforce child support provisions contained in divorce decrees.

Chapter 530 Although this chapter results from an omnibus bill drafted and introduced at the request of the Governor's Task Force on Domestic Violence, a substantial portion incorporates provisions contained in an Office of Court Administration bill drawn in consultation with the Committee. These provisions clarify the procedure for enforcement where a violation of a Family Court order of protection is alleged.

In addition to these measures, the following bills drafted by the Committee, were offered for introduction by the Office of Court Administration and will be re-introduced in the coming legislative session:

(1) A bill which would repeal section 236 of the Family Court Act and section 4401 of the Education Law and amend section 232(b) of the Family Court Act and section 236 of the Education Law to remove from Family Court its residual jurisdiction over the special educational needs of handicapped children. This measure would place full responsibility for the educational needs of all handicapped children in the State Department of Education;

(2) A bill which would amend section 245 of the Family Court Act to provide that law guardians shall be compensated at the rate set by section 722-b of the County Law for assigned counsel;

(3) A bill which would amend section 724-b of the Family Court Act dealing with the destruction of fingerprints of certain juveniles. This measure is being re-introduced with a revised memorandum of support to reflect the recent developing case law in this area;

(4) A bill which would amend sections 756 and 1055 of the Family Court Act to set time requirements for the filing of extension of placement applications; and

(5) A bill which would amend section 545 of the Family Court Act to provide that the court in a paternity proceeding may order each parent to contribute to the support of a child who is a subject of a paternity proceeding according to his or her means. This would bring this section into conformity with chapter 281 of the Laws of 1980 and into compliance with *Orr* v. *Orr*, 440 U.S. 258 (1979).

Rules

As stated above in more detail, the Committee will be focusing its efforts in the early part of this year upon Part 34 of the Rules of the Chief Judge and upon the need, if any, for other rules pertaining to the use of hearing examiners.

The Committee also is examining the impact of Chapter 281 of the Laws of 1980 which made sweeping changes in the Domestic Relations Law and introduced the concept of equitable distribution into New York State marital law. This statutory change affects support responsibility and support, maintenance and property distribution in matrimonial proceedings. Since there is both concurrent and referred jurisdiction between the Family Court and Supreme Court in these proceedings, the Committee has begun a consideration of possible rules which would encourage expeditious and orderly disposition of these cases.

In addition, the Committee will continue to review the Uniform Family Court Rules (22 NYCRR Part 2500) to propose changes which may have been made necessary or desirable by recent legislation.

Forms

The Committee continued its annual review and revision of the official forms for Family Court proceedings made necessary by recent legislation.

However, in addition, the Committees reviewed and commented upon a proposed form of affidavit of financial disclosure to implement section 236 of the Domestic Relations Law as amended by Chapter 281 of the Laws of 1980, described above. Because the determinations of support, maintenance and property distribution in matrimonial actions are likely to become exceedingly complicated, the bench and bar expressed the need for a carefully drawn affidavit of financial disclosure to provide a useful basis upon which the parties can proceed to discovery and the court can ultimately make its determination, indicating the basis for its decision as statutorily mandated. A proposed form was considered by this Committee and its comments forwarded to the State Administration.

Dated: January, 1981
Respectfully submitted,

THE FAMILY COURT ADVISORY
AND RULES COMMITTEE

Hon. Donald J. Corbett, Jr.,
Chairman
Hon. Arthur J. Abrams
Hon. Gene L. Catena
Hon. David J. Donahoe
Hon. Hugh Ross Elwyn
Hon. William L. Kellick, Jr.
Hon. Shirley Wohl Kram
Hon. Howard A. Levine
Hon. Saul Moskoff
Hon. Paul F. Murphy
Hon. Richard M. Palmer
Hon. Aileen Haas Schwartz
Hon. Jack Turret
Hon. Robert H. Wagner
Hon. Joseph B. Williams

Non-voting members
Richard J. Comiskey, Esq.
William G. O'Brien, Esq.

Consultant
Frank Boccio, Esq.

Shirley Mitgang, Esq.
Staff Counsel

Scott Osadchey, Esq.
Ass't. Staff Counsel

APPENDIX 1

Interim Report
to the
Chief Judge
of the
New York State Court of Appeals
by the
Media Advisory Committee

May 30, 1980

On October 16, 1979, the New York State Court of Appeals, for the first time, invited television and press photographers into its courtroom in order to present to the public an actual court session.

Partly as a result of the uniformly favorable response to this experiment, on December 6, 1979, Chief Judge Lawrence H. Cooke appointed the Media Advisory Committee to study the issue and make recommendations to him, and then to the Court of Appeals and to the Chief Administrative Judge, with respect to proposed amendments to the Rules of Judicial Conduct governing broadcasting or telecasting from a courtroom.

Paragraph seven of subdivision (a) of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (22 NYCRR 33.3(a)(7)) now provides as follows:

(7)(i) The taking of photographs in or of a courtroom, the broadcasting from a courtroom and the telecasting in or of a courtroom any time or on any occasion, whether or not the court is in session is forbidden, unless permission of the chief judge of the Court of Appeals is first obtained. However, this provision shall not apply to applications made to the appropriate court for photographing, taping, or videotaping by or on behalf of the parties to the litigation for the sole purpose of the litigation and not for public dissemination.

(ii) In criminal matters, law enforcement and court personnel should not prevent the photographing of defendants when they are in public places outside the courtroom. They should neither encourage nor discourage pictures or televising but they should not pose the accused.

(iii) The foregoing is not to be construed as a limitation upon the responsibility and authority of the chief judge of the Court of Appeals, the presiding justices of the Appellate Divisions or the administrative judges to formulate and effectuate such reasonable rules as may be necessary and proper to ensure that the coverage permitted shall respect the dignity, decorum and safety of the courthouse and the proper conduct of court business therein.

The Media Advisory Committee was appointed to ascertain whether the absolute prohibition of broadcasting contained in this rule should be continued, and, if not, to develop guidelines for authorized radio and television broadcasting and still news photography.

The initial meeting of the Committee was held on December 19, 1979, to organize the Committee and to decide upon the best method of accomplishing its task. At this meeting the Committee viewed video cassette excerpts of the October 16, Court of Appeals experiment and conducted a general discussion of the concept of media coverage of court proceedings.

The Committee decided to solicit the views of all interested groups and individuals concerning media access to courtrooms. Pursuant to this approach the Committee wrote to many groups and individuals and distributed a release requesting all interested persons and groups to submit written comments, personal, professional and technical, assessing the issue of access by the electronic and print/photographic media to the courts. The release stated that the Committee was particularly interested in opinions and expressions of view relating to:

(a) coverage of civil and criminal matters;
(b) attitudes of litigants, witnesses, lawyers, jurors, judges, prosecutors, media representatives, educators and the like;
(c) rules of procedure for governing access, should it be approved;
(d) commercial and educational differences, if any, in the use of the ultimate product of access;
(e) consent or notice safeguards, if any, and in what form;
(f) uniformity and application of technical specifications to existing conditions;
(g) pool coverage;
(h) cost factors and who shall bear the fiscal burden;
(i) any other aspect or perspective which would be helpful to a thorough consideration of the main issue of access at all and implementation if authorized.

The response to this release was voluminous and illuminating, demonstrating the wide and varied interest in and importance of this issue. The Committee received letters and memorandums from law school and college professors, bar associations, judges, court administrators, judicial associations, media representatives, lawyers, public officials of all kinds, various public interest groups, State and local agencies and private individuals. These materials reflected a wide variety of views, pro and con, with respect to the central issue of permitting media access, and provided excellent, valuable, technical and legal assistance concerning proposed guidelines.

The Committee also wrote to the administrative offices of the courts of all states which now permit television coverage or are experimenting with this coverage, requesting any reports, studies or evaluations which those states may have compiled. In response to this request the Committee received volumes of material from twenty-two states indicating their experience with media access to the courtroom.

After studying the materials received in response to its requests for information, the Committee met again on May 6, 1980, to discuss and adopt its position and formulate recommendations.

As a result of those deliberations the Media Advisory Committee recommends that the Rules of Judicial Conduct be amended; (1) to permit the broadcasting of appellate proceedings on a permanent basis, and (2) to authorize an experimental program giving judges discretion to allow audio-visual coverage of Civil Trials on a controlled basis in diverse locations in New York State, including urban, suburban and rural communities. Both changes should be subject to authorization from the Chief Judge, or the Court of Appeals or whomsoever they shall delegate to insure control, centralization and consistency.

Since a successful experiment with respect to televising appellate proceedings has already been completed and evaluated, we believe that the Court of Appeals should now issue permanent rules governing appellate proceedings. Our study of the successful Court of Appeals experiment and the response thereto forms the basis of our recommendation to promulgate the following rules substantially adopted from the proposal submitted to us by the Association of the Bar of the City of New York, Special Committee on Communications Law, to whom we are very grateful for an excellent overall work product.

I. Guidelines for Electronic and Photographic Recording of Appellate Court Proceedings

1. Equipment and personnel.

(a) Two portable videotape electronic television cameras and two camera operators shall be permitted in any proceeding in any appellate court.

(b) Two still photographers and two still cameras with not more than two lenses for each camera and related equipment for print purposes shall be permitted in any proceeding in any appellate court.

(c) One audio system for radio broadcast purposes shall be permitted in any proceeding in any appellate court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the presiding judge or justice of the court hearing the appeal.

(d) Notwithstanding the provisions of (a), (b) and (c), above, the court may increase or decrease the amount of equipment that will be permitted into the courtroom on finding (1) that there is a need therefor because of special circumstances, and (2) that it will not impair the dignity of the court or the judicial process.

(e) Notwithstanding the provisions of (a), (b) and (c), above, the equipment authorized therein shall not be admitted into the courtroom unless interested members of the electronic media and interested print photographers shall have entered into pooling arrangements, for their respective groups, including the establishment of necessary procedures, cost sharing, access to material, and selection of a pool representative. The court may not be called upon to mediate any dispute as to such arrangements. In making pool arrangements, consideration shall be given to educational users' needs for full coverage of entire proceedings.

2. Sound and light criteria.

(a) Only television photographic and audio equipment and still camera equipment which do not produce distracting sound or light shall be employed to cover judicial proceedings. Specifically, television photographic and audio equipment shall produce no greater sound or light than the equipment designated in Appendix A annexed hereto; and still camera equipment shall produce no greater sound or light than a 35 mm. Leica "M" Series Rangefinder Camera.

(b) It shall be the affirmative duty of media personnel desiring to use equipment other than that authorized in these Rules or the appendix thereto to demonstrate to the Court adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light criteria enunciated herein. A failure to obtain advance judicial approval for equipment shall preclude its use in any proceeding.

3. Location of equipment and personnel.

Television and still camera equipment and camera personnel shall be positioned in such locations as shall be designated by the court. The areas designated shall provide reasonable access to coverage with the least possible intrusion into court proceedings. Videotape recording equipment which is not a component part of a television camera shall be located in an area outside the court facility.

4. Movement of equipment during proceedings.

Electronic, still photographic and audio equipment shall not be placed in or removed from the court facility and related personnel shall not move about the courtroom except prior to commencement or after adjournment of proceedings each day, or during a recess. Whenever possible television film magazines and still camera film or lenses shall be changed during a recess in the proceeding.

5. Courtroom light sources.

With the concurrence of the court, modifications and additions may be made in light sources existing in the facility, provided such modification or additions are installed and maintained at media expense.

6. Conferences of counsel.

To protect the attorney-client privilege and effective right to counsel, there shall be no audio pickup or audio broadcast of conferences which occur in a court house or facility between attorneys and their clients, between co-counsel of a client, or between counsel and the presiding judge held at the bench. Nor shall any chambers conference be filmed, recorded or broadcast.

7. Consent not required.

Electronic media or print photography coverage of appellate arguments shall not be limited by the objection of counsel or parties, except for good cause shown.

8. Appellate review.

An order including or excluding the electronic media from access to any proceeding, or upon any other matters arising under these standards shall not be appealable.

* * * * *

No experimentation with respect to media coverage of trial court proceedings has ever been conducted in New York, and, therefore, a controlled trial period of authorization is essential to evaluate effectively the impact of television upon all parties to litigation and upon the judicial trial process in this State.

The advantages of allowing the public to observe the proceedings in our trial courts outweigh the disadvantages articulated by those who oppose all access by the media. While the Committee recognizes and respects the existence of divergent views on this subject, it nevertheless concludes that the issuance of authorization to proceed on an experimental basis is the most prudent and wisest course of action.

As indicated in the report of Association of the Bar's Special Committee on Communications:

> An experimental pilot program for televising trial court proceedings is the logical next step for New York State. The same reasons that justified television coverage of appellate arguments should lead to

trial court coverage as well: (1) it will educate the public on how trial courts perform and how the rule of law operates at the trial level; and (2) it will serve to produce important educational materials for lawyers and law students.

Although the Committee recommends the implementation of an experimental program, it recognized and the entire Media Advisory Committee believes that an amendment to section 52 of the Civil Rights Law is necessary. Many believe it is necessary before any project at the trial level may proceed. Section 52 provides in pertinent part:

> No person, firm, association or corporation shall televise, broadcast, take motion pictures or arrange for the televising, broadcasting, or taking of motion pictures within this state of a proceeding, in which the testimony of witnesses by subpoena or other compulsory process is or may be taken, conducted by a court, commission, committee, administrative agency or other tribunal in the state. . . .

A recent Attorney General's Opinion has interpreted this section as an absolute prohibition which cannot be waived by the parties to a proceeding. 1978 Op. Atty. Gen. 68 (August 15, 1978).

Some members of the Committee noted that this section may be subject to less absolutist interpretation and construction. Some also opine that the legislative enactment may even be in conflict with the Court of Appeals' authority to approve standards and administrative policies with respect to the judicial branch, pursuant to section 28 of article six of the New York State Constitution. Thus, the Committee must leave to the Court's final interpretation and decision whether to proceed without a statutory amendment, if, in any event, the Court accepts our basic recommendations. It is the majority position of the Committee, however, that an appropriate amendment should be sought in all events even if an experiment is commenced without the statutory change. In this regard the Committee offers to draft proposed legislation if the Court agrees that this is necessary; for example "court" could be repealed and excised from the section.

We also recommend that the trial court experiment be limited to trials of civil actions at this time. The United States Supreme Court has recently granted a petition for certiorari and agreed to review a determination of the Florida Supreme Court upholding the constitutionality of televised coverage of criminal proceedings. *Chandler v. Florida,* _____ U.S. _____, cert. granted, April 21, 1980. In *Chandler,* the Supreme Court will review the question whether media coverage of criminal trials violates rights to a fair trial and to due process under the Sixth and Fourteenth Amendments to the United States Constitution. 27 Cr. L. Rptr. 4029. Since an effective experiment must be based upon experience with actual trials, the coverage of criminal trials in New York now imparts too great a risk of possible irreparable error. To avoid this risk, criminal trials should be excluded from the experiment until the Supreme Court has decided the case and issued its ruling and articulation.

Although the Committee was closely divided concerning whether the consent of the parties should be required, the majority agreed to forego this requirement prior to authorizing media coverage of civil trials during the experiment, at least. Experience in other states has shown that to require consent would practically eliminate the opportunity to conduct the experiment and would unduly restrict the discretion of the trial judge in this regard. Furthermore, since consent is not required for the print media, we do not think it is necessary, desirable or evenhanded for other media to be so encumbered.

The Rules of Judicial Conduct, when and if amended to permit media access to Civil Trials on a controlled experimental basis, should also provide that the discretion of the trial judge presiding shall control and that the experiment be conducted in diverse locations in New York State specifically designated for this purpose by the Chief Administrative Judge, including urban, suburban and rural communities. Overall, the experiment should be subject to authorization of the Chief Judge or the Court of Appeals or whomever they shall delegate to insure control, centralization and consistency. This experiment should be conducted in accordance with the following guidelines which were also based substantially upon those submitted by the Association of the Bar's Special Committee on Communications with respect to whom we have already expressed our appreciation.

II. Guidelines for Electronic and Photographic Recording of Civil Trial Court Proceedings for Experimental Period

1. Equipment and personnel.

(a) Two portable videotape electronic television cameras and two camera operators shall be permitted in any proceeding in any trial court.

(b) Two still photographers and two still cameras with not more than two lenses for each camera and related equipment for print purposes shall be permitted in any proceeding in any trial court.

(c) One audio system for radio broadcast purposes shall be permitted in any proceeding in any trial court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the Administrative Judge of the district in which the trial court is located.

(d) Notwithstanding the provisions of (a), (b) and (c), above, the court may increase or decrease the amount of equipment that will be permitted into the courtroom on finding (1) that there is a need therefor because of special circumstances, and (2) that it will not impair the dignity of the court or the judicial process.

(e) Notwithstanding the provisions of (a), (b) and (c), above, the equipment authorized therein shall not be admitted into the courtroom unless interested members of the electronic media and interested print photographers shall have entered into pooling arrangements, for their respective groups, including the establishment of necessary procedures, cost sharing, access to material, and selection of a pool representative. The court may not be called upon to mediate any dispute as to such arrangements. In making pool arrangements, consideration shall be given to educational users' needs for full coverage of entire proceedings.

(f) The pool operator covering the proceedings shall retain pool material for one year. The pool operator shall make available a copy of pool material at cost to educational users or to the Court of Appeals at their request.

2. Sound and light criteria.

(a) Only television photographic and audio equipment and still camera equipment which do not produce distracting sound or light shall be employed to cover judicial proceedings. Specifically, television photographic and audio equipment shall produce no greater sound or light than the equipment designated in Appendix A annexed hereto; and still camera equipment shall produce no greater sound or light than a 35 mm. Leica "M" Series Rangefinder Camera.

(b) It shall be the affirmative duty of media personnel desiring to use equipment other than that authorized in these Rules or the appendix thereto to demonstrate to the Court adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light criteria enunciated herein. A failure to obtain advance judicial approval for equipment shall preclude its use in any proceeding.

3. Location of equipment and personnel.

Television and still camera equipment and camera personnel shall be positioned in such locations as shall be designated by the court. The areas designated shall provide reasonable access to coverage with the least possible intrusion into court proceedings. Videotape recording equipment which is not a component part of a television camera shall be located in an area outside the court facility.

4. Movement of equipment during proceedings.

Electronic, still photographic and audio equipment shall not be placed in or removed from the court facility and related personnel shall not move about the courtroom except prior to commencement or after adjournment of proceedings each day, or during a recess. Whenever possible television film magazines and still camera film or lenses shall be changed during a recess in the proceeding.

5. Courtroom light sources.

With the concurrence of the court, modifications and additions may be made in light sources existing in the facility, provided such modification or additions are installed and maintained at media expense.

6. Conferences of counsel.

There shall be no audio pickup or audio broadcast of conferences which occur in a court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the presiding judge held at the bench, without the express consent of all participants in the conference. Nor shall any chambers conference be filmed, recorded or broadcast.

7. Voir dire or pretrial hearings.

During the conduct of any voir dire or pretrial hearing at which the print media is ordered by the trial judge to be excluded, the electronic media shall also be excluded.

8. Reports.

For the purpose of further evaluation by the Court of Appeals, in any case in a trial court where coverage of any kind shall be afforded to the news media as authorized herein, immediately upon the conclusion of such case a report shall be filed with the Court of Appeals on the effect of such coverage by the trial judge, by each trial counsel who has been of record in the case and by the media representatives, if they so wish. Such reports shall state the general reaction of such participant to the media coverage, together with a statement of such participant as to any changes in guidelines that might be suggested. The foreman of the jury shall also be asked his reaction by the trial judge, who shall make any response a part of his report. The reports shall be filed with the Clerk of the Court of Appeals on forms prepared by the Chief Administrative Judge of the Courts.

9. Location and coverage of trial courts during experimental period; selection of trials for coverage; appeals.

(a) The Chief Administrative Judge shall designate the county or counties where media coverage shall occur as authorized by these guidelines. The television, radio or print photography media may petition the judge presiding at the trial or special term in the designated county or counties for permission to cover specific civil trials in which they are interested, upon reasonable notice to the Administrative Judge. Permission for coverage shall be in the sole discretion of the judge presiding. An order including or excluding the electronic media from access to any proceeding shall not be reviewable upon appeal or in a collateral proceeding.

(b) In deciding which trials shall be televised, broadcast, and/or photographed, the judge presiding shall take into account the following factors: the type of case involved; whether such coverage would cause a substantial increase in the threat of harm to any participant in the case or would otherwise interfere with the fair administration of justice or materially interfere with the advancement of a fair trial or the rights of the parties.

10. Broadcasting by the media.

During the trial period authorized herein, there will be no restrictions on the broadcasting of public civil proceedings, including live broadcasts of same, except such restrictions as may otherwise exist in express provisions of law, as for example Family Court Act proceedings and the like.

11. Mandatory pretrial conference.

(a) Because of the novelty of a pilot program and the inexperience both of the judiciary and the media, a mandatory pretrial conference in each selected case shall be held among the judge presiding, attorneys and media personnel assigned to cover the proceedings, with all matters discussed to be consistent with the guidelines herein adopted. Objections, if any, to electronic or print photography media coverage shall be considered at this conference.

(b) At such conference the judge presiding shall review with all present the guidelines herein adopted and shall make such rulings as to the judge or justice may seem most appropriate.

12. Consent not required.

Electronic media or print photography coverage of civil actions during the experimental period shall not be limited by the objection of counsel, parties or witnesses, except for good cause shown.

13. Impermissible use of media material.

None of the film, videotape, still photographs or audio reproductions developed during or by virtue of coverage of a judicial proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any retrial or appeal of such proceedings.

14. Duration of trial period.

The trial period shall run for one year or until at least twenty trial-court cases have been covered by television and print photography unless terminated or extended prior thereto by order of the Court of Appeals.

The Committee offers its availability to the Chief Judge and the Court of Appeals for continued service, monitoring and evaluation of reports of the participants in the experiment, should the Court approve it, and to make recommendations with respect to the desirability and content of permanent rules.

We express our gratitude to all who have helped us and especially to the Chief Judge and the Court of Appeals for their completed experiment and their continued leadership, and for this opportunity to participate in this project.

Respectfully submitted,

THE MEDIA ADVISORY COMMITTEE

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Anthony R. Palermo
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APPENDIX

Video Tape Electronic Cameras

1.	Ikegami	HL-77, HL-33, HL-35, HL-34, HL-51
2.	RCA	TK-76
3.	Sony	DXC-1600 Trinicon
3a.	ASACA	ACC-2006
4.	Hitachi	SK-80, SK-90
5.	Hitachi	FP-3030
6.	Phillips	LDK-25
7.	Sony BVP-200	ENG Camera
8.	Fernseh	Video Camera
9.	JVC-8800 u	ENG Camera
10.	AKAI	CVC-150, VTS-150
11.	Panasonic	WV-3085, NV-3085
12.	JVC	GC-4800 u

Video Tape Recorders/used with video cameras

1.	Ikegami	3800
2.	Sony	3800
3.	Sony	BVU-100
4.	Ampex	Video Recorder
5.	Panasonic	1 inch Video Recorder
6.	JVC	4400
7.	Sony	3800H

APPENDIX 2

Report of the Ad Hoc Committee on Medical Malpractice Panels to the Chief Administrative Judge of the State of New York on the Operation of Medical Malpractice Panels

March 19, 1980

Hon. Joseph F. Gagliardi, Chairman
Administrative Judge of the Ninth Judicial District
(Dutchess, Orange, Putnam, Rockland and Westchester Counties)

Hon. Arthur F. Cromarty,
Administrative Judge of the Tenth Judicial District
(Suffolk County)

Hon. John H. Doerr,
Associate Justice of the Appellate Division
Fourth Judicial Department
(Fifth, Seventh and Eighth Districts)

Hon. Edward R. Dudley,
Assistant Administrative Judge of the First Judicial District
(Bronx and New York Counties)

Hon. William C. Thompson,
Assistant Administrative Judge of the Second Judicial District
(Kings and Richmond Counties)

Francis Zarro, Secretary
Executive Assistant to Hon. Joseph F. Gagliardi

(The following is a condensed version of the original report, which was issued by the Committee March 19, 1980)

I. Introduction

In early 1974 the New York State Legislature, noting a sharp increase in medical malpractice insurance premiums and responding to an impending crisis in the medical malpractice insurance area, enacted Chapter 657 of the Laws of 1974. This legislation made significant changes in the field of medical malpractice. Chapter 657 of the Laws of 1974 was signed by the Governor and, as a result, Section 148(a) of the Judiciary Law was amended.

The basic intent of this provision was to weed out frivolous malpractice claims against physicians, to provide a structured forum for settlement negotiations and at the same time apprise the litigants of the strengths and weaknesses of their respective cases. It was the desire of the legislators that the use of medical malpractice panels would result in an overall reduction in the number of medical malpractice suits brought to trial and a dramatic reduction in the proportions of jury verdicts.

A more general goal of the medical malpractice panel is to reduce the congested civil trial case calendars by bringing about "dispositions at the pre-trial stage of litigation with diminished expense in time, effort and money to the parties and to the court".[1]

In November of 1978, then Chief Administrative Judge Richard J. Bartlett directed that an *ad hoc* committee be formed for the purpose of evaluating whether or not the medical malpractice panels established pursuant to Judiciary Law Section 148(a) have achieved their stated purposes. Appointed as Chairman of this Committee was Hon. Joseph F. Gagliardi, Administrative Judge of the Ninth Judicial District. The other members of the Committee are Hon. Arthur F. Cromarty, Administrative Judge of the Tenth Judicial District (Suffolk County), Hon. John H. Doerr, Associate Justice of the Appellate Division, Fourth Judicial Department, Hon. Edward R. Dudley, Assistant Administrative Judge of the First Judicial District and Hon. William C. Thompson, Assistant Administrative Judge of the Second Judicial District.

The Committee has undertaken a comprehensive study of the workings of the medical malpractice panels. This report details the findings of the Committee and provides an in-depth analysis of the general impact of medical malpractice panel decisions on medical malpractice litigation throughout the State. It examines by judicial district the amount of time and staff required to set up and administer hearings and identifies the impact of panel findings on the eventual disposition of cases where actions have proceeded to trial.

In addition to the analysis of the foregoing issues, certain pertinent questions relating to the general performance of medical malpractice panels are addressed by the Committee. After presenting the statistical reports and other data pertaining to each jurisdiction, the Committee's conclusions and recommendations are set forth and in accordance with its mandate are hereby respectfully submitted to the Hon. Herbert B. Evans, Chief Administrative Judge of the State of New York.

II. Authority for the General Operation of Medical Malpractice Panels in the State of New York

Judiciary Law Section 148(a) establishes the provisions for the basic operation of the medical malpractice panels in New York State. This section provides in pertinent part that:

> All hearings shall be before a panel of three consisting of a Justice of the Supreme Court, a physician and attorney (subd. 2). The panel doctor and attorney are chosen from a list prepared by the presiding Justice of each Appellate Division (subd. 2, pars. a & b). Prior to the hearing date any party may file a written objection to the designation of a doctor or attorney, which objection shall be decided by the justice presiding as a member of the panel (subd. 2, par. d). The specialty involved in the case is determined and communicated to the court by the Medical Society of the State of New York, a county medical society and/or the New York Academy of Medicine and after a review of the material submitted to the Court (pleadings, bills of particulars and medical and hospital records) (subd. 2, pars. a & b). *The hearing itself is informal, without a stenographic record (subd. 4). The panel may request an additional doctor having particular expertise in the specialty involved* to assist it in its determination (Judiciary Law 148(a)].

This section also requires that each Appellate Division promulgate rules with respect to the establishment and operation of medical malpractice panels [Sec. 148(a)].

The following sections of this report examine the applicable rules of each of the four Appellate Divisions with regard to the conduct of medical malpractice panels.

A. First Judicial Department

The Rules of the Appellate Division, First Judicial Department, relating to the medical malpractice panel are set forth in 22 NYCRR 636.1. By order of the Appellate Division, First Judicial Department, a special part designed to facilitate the operation of the medical malpractice panel was created. In the First Department all hearings are held before a panel of three, consisting of a Justice of the Supreme Court designated to preside by the Appellate Division, a physician and an attorney-at-law [22 NYCRR 636.1(4)]. The physician and attorney are appointed according to set procedures. A list of doctors regularly admitted to practice medicine in the State of New York is prepared by the Presiding Justice of the Appellate Division with the assistance of the Medical Society of the County of New York and the New York Academy of Medicine. The panel is divided into lists of doctors according to particular specialties

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[1] Joint Interprofessional Committee of Doctors and Lawyers, Report on the Medical Malpractice Program [of the Appellate Division, First Department, Supreme Court of the State of New York] 1972.

[22 NYCRR 636.1(4)(a)]. The Presiding Justice also prepares a list of attorneys with trial experience, not confined to any specialty [22 NYCRR 636.1(4)(b)]. The names of doctors may be removed by the Presiding Justice of the Appellate Division at his discretion. The names of additional doctors may be added by the New York Academy of Medicine and the Medical Society of the County of New York on an ongoing basis [22 NYCRR 636.1(4)(c)].

The medical malpractice panel hearings are informal and conducted without stenographic record. No statement made in the courts of a hearing is admissible in evidence either as an admission or otherwise in any trial of the action. The justice presiding at the hearing may not preside at the trial and may not hear any application in the case not connected with the hearing itself. No other panel member may participate in the trial either as counsel or witness except for the physician panelist who may be subpoenaed at a subsequent trial.

All parties must be represented at the hearings by counsel authorized to act for them. If such authority is not conferred, the plaintiff and the authorized carrier representing the defendant must attend the hearing. Failure to attend may be sufficient cause for the justice presiding to strike the case from the calendar, order an inquest or make such direction as justice requires [22 NYCRR.1(7)].

Following counsels' presentations and discussions between the panel and counsel, if any disposition is arrived at, either as to the whole case or any part of it, an appropriate order is immediately entered [22 NYCRR 636.1(8)].

Any judge presiding in an individual calendar part may send any case based upon medical practice for a hearing to Part Twenty-Seven and the clerk of the part fixes a suitable date for a hearing [22 NYCRR 636.1(9)]. These provisions apply to both New York and Bronx Counties.

B. Second Judicial Department

The Rules of the Appellate Division, Second Judicial Department, relating to the medical malpractice panel are set forth in 22 NYCRR 684.1-684.6. Effective April 7, 1976, certain rules were amended to clarify questions dealing with the composition and qualification of panel members. In the Second Judicial Department, medical and attorney members of any proposed panel must "disclose any circumstances likely to create a presumption of bias which he believes might disqualify him" [22 NYCRR 684.2(h)].

Generally, individuals are appointed to the medical malpractice panel throughout the State in the same manner. However, the Appellate Division in the Second Judicial Department has, by rule, expanded the provisions established in Judiciary Law Section 148(a).

If a malpractice action involves two or more defendants, each of whom is a specialist in a particular area of medicine, the Supreme Court Justice assigned to the medical malpractice panel in his discretion may direct that a separate panel make a disposition with respect to each defendant [22 NYCRR 684.4(b)]. The intent of this rule is to afford the defendant specialist the opportunity for review by a practitioner in his own area of specialization [22 NYCRR 684.3(c)].

Panelists are initially appointed by the Presiding Justice of the Department. The judges on the panel are usually appointed from among senior members of the bench, the attorneys from among lawyers with trial experience and the physicians from a list, categorized according to specialty, as submitted by medical associations.

Specific provisions for the panel's consideration of medical malpractice cases pertaining to the practice of podiatry have been established in the Second Judicial Department and a podiatrist must serve on the panel when it hears a case relating to that particular area of specialization [22 NYCRR 684.3(b)].

The physician member of the panel is assigned by the clerk of the court from a list of doctors regularly admitted to practice in the State of New York. This list is prepared by the Presiding Justice of the Appellate Division of the Second Judicial Department, a county medical society and/or the New York Academy of Medicine [22 NYCRR 684.3(c)].

Podiatrists are assigned from a similar list of podiatrists prepared by the Presiding Justice and the Podiatry Society of the State of New York [22 NYCRR 684.2(d)].

Attorney members are assigned by the clerk of the court from a list of attorneys-at-law admitted to practice in New York State and in good standing. This list is prepared by the Presiding Justice of the Appellate Division, Second Judicial Department from among attorneys with trial experience, not confined, however, to the field of medical malpractice or any other legal specialty [22 NYCRR 684.2(e)].

The Presiding Justice of the Appellate Division may, at his discretion, add or remove the names of doctors, podiatrists or attorneys from the list.

All hearings of malpractice actions must be before a panel of three members [22 NYCRR 684.3]. These proceedings are informal and without stenographic record. The justice presiding at the hearing may not preside at the trial and no other panel member may participate in the trial either as counsel or witness. No statement or expression of opinion made during the course of a hearing by a panel member is admissible as evidence either as an admission or otherwise in any trial of the action [22 NYCRR 684.4(a)].

The parties must submit to the court all written material including pleadings, Bills of Particulars, medical and hospital reports, at least three weeks prior to the hearing. Prior to the date set for the hearing, the court will notify the parties of the identities of the doctor and lawyer members of the panel and where there are objections to the composition of the panel they must be submitted within five days of notification [22 NYCRR 684.4(c)].

All parties must be represented at the hearing and counsel must be authorized to act for their respective clients. If such authority is not possessed by counsel, the plaintiff and the authorized carrier representing the defendant must be present at the hearing. Failure to appear can result in the removal of the case from the calendar, or an order for an inquest or other direction as justice requires [22 NYCRR 684.4(e)].

The court fixes the date for hearings and provides thirty days notice to members of the panel, the parties and their counsel [22 NYCRR 684.5]. Applications for adjournments may be made by any party to the justice presiding at least one week prior to the hearings [22 NYCRR 684.5(b)].

Following presentations and discussion between the panel and counsel, if any disposition is arrived at, an appropriate order is immediately entered.

C. Third Judicial Department

Provisions for the establishment and operation of medical malpractice panels in the Third Judicial Department are set forth in 22 NYCRR 863.5.

Medical malpractice panels in the Third Judicial Department are comprised of doctors, attorneys and judges drawn from lists of names in each judicial district, which are prepared by the Presiding Justice of the Appellate Division [22 NYCRR 863.5].

The separate lists prepared by the Presiding Justice include: a list of all Justices of the Supreme Court within the judicial district other than those assigned to the Appellate Division [22 NYCRR 863.5(a)(1)]; a list of doctors regularly admitted to practice medicine in the State of New York who are residents of the judicial district and whose names have been submitted to the Presiding Justice by the Medical Society of the State of New York and/or the county medical society and have been approved by the Presiding Justice (the particular specialty of each doctor is set forth on the list) [22 NYCRR 863.5(a)(2)]; and a list of attorneys with trial experience regularly admitted to practice law in the State of New York who are residents of the judicial district or who have a law office located in the judicial district [22 NYCRR 683.5(a)(3)].

Names may be removed from each list as ordered by the Presiding Justice of the Appellate Division.

In the Third Judicial Department, whenever a Note of Issue indicating a medical malpractice cause of action is filed in any court, the clerk of the court must immediately notify the Presiding Justice in writing. The clerk must also require that pleadings, Bills of Particulars and certain hospital and medical reports be submitted in duplicate and be made available to panel members upon request. A copy of the pleadings and other written material needed to ascertain the specific nature of the medical malpractice action must be provided to the Presiding Justice [22 NYCRR 863.5(e)(1)].

Upon designation of a panel for a particular case, notice of designation is made by the panel to all of the parties [22 NYCRR 863.5(e)(3)]. The Chairman of the panel must schedule a hearing at his first opportunity. This hearing is informal and no stenographic record is made [22 NYCRR 863.5(e)(4)].

Specific provisions are set forth for the conduct of hearings where a podiatrist is the defendant. Under Third Department procedures, a podiatrist and not a doctor of any other specialty must then sit on the panel [22 NYCRR 863.5(f)].

D. Fourth Judicial Department

Provisions for the establishment and operation of medical malpractice panels in the Fourth Judicial Department are set forth in 22 NYCRR 1028. The establishment of medical malpractice panels is specifically provided for in the Seventh and Eighth Judicial Districts. Separate panels are created in the Fifth Judicial District for the counties of Onondaga, Oswego, Jefferson, Oneida, Herkimer and Lewis [22 NYCRR 1028.2]. The procedures for the selection of panels in the Fourth Judicial Department differ significantly from those in the First, Second and Third Departments. The Director of Administration of the Courts in the Fourth Judicial Department submits lists of attorneys, doctors and podiatrists to the Presiding Justice of the Appellate Division. Upon the request of the Presiding Justice of the Appellate Division, the Director of Administration recommends revisions in lists of doctors, as well as lists of podiatrists, practicing within the Department, specifying the county of practice and area of specialization. A compilation of attorneys-at-law practicing within the Department is also prepared [22 NYCRR 1028.2(a)(1)-1028.2(a)(3)].

The Presiding Justice reviews each list, adds and deletes names as he deems appropriate and upon approval files it with the clerks of the Supreme Court in Erie, Monroe, Onondaga and Oneida Counties [22 NYCRR 1028.2(b)].

A determination of the medical specialty involved is made after counsel have filed three copies of all pleadings, papers, medical reports, Examinations Before Trial and hospital records with the panel clerk. This filing is required at the time the action is scheduled for placement on the ready day calendar. The panel clerk must forward the entire record to the county medical society so that a determination of medical specialty can be made [22 NYCRR 1028.4(a)-1028.4(c)].

III. Operational Descriptions of Medical Malpractice Panels Throughout New York State by Judicial District and Analysis of Statistical Data

The Ad Hoc Committee forwarded questionnaires to Administrative Judges throughout New York State which solicited information pertaining to the operation of the medical malpractice panel in their respective Judicial Districts.

Each Administrative Judge was asked to track all cases for which medical malpractice hearings were conducted and subsequently settled through pre-trial conference or set down for trial. The Committee requested data pertaining to the ultimate disposition of the case. For each medical malpractice action the Committee inquired into the recommendation of the panel and the disposition during or after trial.

In addition to this data, information detailing the range of settlements recorded by medical malpractice parts for the calendar years 1976, 1977 and 1978 was requested. This case-oriented data made it possible for the Committee to attempt to establish correlations between panel activity and ultimate dispositions.

Certain additional information was required in order for the Committee to evaluate the effectiveness of the medical malpractice panel system. We asked each jurisdiction to provide us with an operational description of its panel. It was important for the Committee to know, for example, whether one judge is assigned full-time to the part every term or if a judge is assigned part-time in addition to other duties or perhaps assigned only for part of a term. Other information pertaining to the general operation of the part was also solicited. We inquired as to what staff support is utilized, e.g., a court officer, deputy sheriff, security guard, a court clerk or clerks, law secretary, etc. We requested details pertaining to the cost attributable to the medical malpractice part and requested the title and salary of each individual connected with it. This data included the proposed salary and title changes under the Chief Administrator's Classification Plan.

In addition to the foregoing data, certain information relating to the mechanical process of the part was sought. We requested that each judicial district set forth a list of personnel associated with the medical malpractice part together with a description of their typical duties and an itemization of their salaries.

With the exception of certain judicial districts in the Fourth Department where data was not available, each district has provided detailed responses to the Committee's inquiries. The data submitted by each jurisdiction is presented in this report by judicial district. In a later section, data pertaining to the impact of medical malpractice panels on the ultimate disposition of medical malpractice cases will be analyzed on a Statewide basis. In addition to the foregoing information, the Committee has received and analyzed statistics provided by the Office of Court Administration which indicate pre-trial disposition rates for medical malpractice, motor vehicle and other tort cases for the years 1975 through 1979.

First Judicial Department

NEW YORK COUNTY

Background—Experimental Medical Malpractice Panel, September 1971—June 1974, in New York County

New York County maintained and operated a medical malpractice panel from September 27, 1971 through June 11, 1974 on an experimental basis pursuant to an order of the Appellate Division, First Judicial Department. During this period 529 cases were heard before the panel. (See Table A).

The approximate percentage of cases disposed of was 28% and approximately 50% of the settled cases were for an amount of $15,000 or less.

The 1975 enactment of the Judiciary Law Section 148(a) required alterations in the operation of the medical malpractice panel in the Supreme Court, First Department (Manhattan and Bronx).

The District's experience with the panel concept did, however, facilitate the implementation of the mandatory panel.

Table A

Results of Experimental Medical Malpractice Panel in New York County
September 1971 - June 1974

Settled	142)	
Discontinued	4)	147 disposed of
Dismissed	1)	
Remanded	382)	
	529	

IV. Impact of Medical Malpractice Panel Findings on Subsequent Settlements or Verdicts in Medical Malpractice Cases in New York State, 1976 - 1978

A total of 2,041 panel hearings were conducted throughout New York State from January 1976 through December 1978. Of this total, recommendations were issued in 1,574[2] cases. Of these 1,574 recommendations, 145 cases were settled in panel. This represents an in-panel settlement rate of 9.2%. Panel recommendations were followed by pre-trial dispositions in 855 cases. This represents a disposition rate of 54.3%. The combined in-panel and post-panel pre-trial disposition rate for the reporting period was 68% (see Table B).

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[2] A total of 2,041 cases were actually empaneled during the reporting period. 467 cases were either marked off the calendar, adjourned to 1979 or otherwise did not complete the panel process. In assessing the impact of the panel on settlements only actual panel dispositions were counted (1,574).

A similar analysis of the disposition of medical malpractice cases by pre-trial conference is useful when assessing the effectiveness of the panel process. A total of 3,420 pre-trial conferences of medical malpractice actions were conducted throughout the State during the three year reporting period. Out of these conferences, 801 cases were settled. This represents a settlement rate of 23%.

Not all jurisdictions engage in the pre-trial of medical malpractice cases before panel. For example, in the Third Judicial Department and in Nassau County cases are assigned to panel immediately after the Note of Issue has been filed. In other jurisdictions, such as Bronx County, cases are not pre-tried but are pre-screened for the purpose of gauging the suitability of the case for panel and identifying the medical specialty at issue.

Statewide statistics reveal that settlements reached subsequent to panel recommendations are more substantial in dollar value than those reached subsequent to traditional court pre-trial proceedings.

Table B
Impact of Medical Malpractice Panel Findings on Subsequent Settlements or Verdicts in Medical Malpractice Cases in New York State

		Disposition After Panel Hearing					
		Settled			Verdict		
Panel Recommendation		At Panel	Before Trial	During Trial	Plaintiff	Defendant	Total
UNANIMOUS	Plaintiff	35 (79.5%)	267	45	24	8	379
	Defendant	5 (59.4%)	220	112	12	30	379
Split		6 (64.5%)	245	74	24	40	389
None		19 (69.6%)	233	69	22	19	362
Total		65 (4.3%)	965 (63.9%)	300	82	97	1.509
		(68.2%)					

V. Evaluation of the Medical Malpractice Panel System by Attorneys and Physicians

During the course of the hearings conducted by the Ad Hoc Committee testimony was heard from judges, attorneys and physicians who are experts in the field of medical malpractice litigation. The following section provides a summary of the points of view expressed during the course of the hearings.

A. Honorable Frank R. Bayger,
Supreme Court Justice,
Eighth Judicial District

Justice Bayger was appointed by then Eighth District Administrative Judge John H. Doerr to study the operation of the medical malpractice panel in the Eighth Judicial District and was later designated Panel Justice.

Justice Bayger expressed the view that the medical malpractice panel is not operating successfully in his district and that only a minimal amount of settlements and discontinuances are reached in that jurisdiction. He stated categorically that if there were no panels in Erie County he would procure approximately the same results through the use of pre-trial conferences. Justice Bayger expressed the view that doctors in the western part of New York State generally favor the abolition of the medical malpractice panel. He is of the opinion that no special preference should be afforded to medical malpractice cases.

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White Plains, New York
Defense Bar

Mr. Caputo summarized his impressions of the legislative objectives which generated the establishment of the mandatory medical malpractice panel. He expressed the view that none of the original expectations of the panel's proponents have been fulfilled and that the present panel system provides no real forum for the settlement of cases. He suggested the attorney member of the panel be eliminated since, Mr. Caputo feels, he contributes very little to the process. He also stated that the doctor panelist should not be subject to subpoena in subsequent trials. Mr. Caputo suggested that sanctions might be appropriate as an improvement to the present panel. If the attorneys were made aware that it is very expensive to try medical malpractice cases, frivolous claims would be discouraged. As a practical matter, Mr. Caputo believes that the requirement of reproducing files and records which is imposed by the panel procedure is placing increased costs on counsel and that as a result it has become more expensive for both plaintiff and defendant to litigate a medical malpractice action.

C. Dr. G. Rehmi Denton
President, Medical Society
of the State of New York
702 Madison Avenue
Albany, New York

Doctor Denton stated that the Medical Society is in favor of retaining the existing medical malpractice panel system with certain amendments and opposes any procedure which will result in the loss of full voting status to physician panel members. He believes doctors are objective and are making a bona fide effort at making the panel effective and successful. He stressed the importance of allowing the admission of certificates of unanimous panel findings in subsequent trials. However, he is opposed to that procedure which requires the physician panel member to testify at subsequent trials. Dr. Denton stated that in the view of the Medical Society the parties should be offered the option of submitting their case to binding arbitration and where this option is exercised, to have the panel hear the case as arbitrators with power to issue a binding decision.

The Medical Society also recommended that steps be taken to establish uniform procedures for the operation of medical malpractice panels. In its view the panels are effective in certain areas of the State while not as productive in others.

The Medical Society favors recommending to the Legislature that sanctions be imposed in the form of court costs where the plaintiff proceeds to trial in the fact of a unanimous finding of no liability and the jury verdict is consistent with that finding. They believe that this might help to weed out what are categorized as frivolous claims.

Dr. Denton also suggested that panel hearings be scheduled at an earlier point in the litigation process in order to provide for a more rapid disposition of cases and to help offset the inflationary pressures caused by excessive delay.

D. Abraham Fuchsberg, Esq.
Fuchsberg & Fuchsberg, Esqs.
250 Broadway
New York, New York
Plaintiff Bar

Mr. Fuchsberg stated his strong opposition to the medical malpractice panel as presently constituted. It is his belief that medical malpractice panels should be eliminated and that aggressive mandatory pre-trials should be conducted in order to obtain settlement dispositions before trial. He stated that a capable and energetic pre-trial judge can contribute more toward the settlement of malpractice cases than can a malpractice panel. Mr. Fuchsberg indicated that a review of the statistics available in the Committee report and a survey of those persons who are engaged in medical malpractice litigation will reveal that the panel has little merit and should be eliminated.

Mr. Fuchsberg stated that in the event the panels are continued certain revisions should be made to the existing procedures. Specifically, it is his view that the panel should not engage in fact finding. Questions of fact should be left to the jury. The panel should only address issues concerning whether or not the medical procedure followed in the individual case conformed with existing medical standards in the community. In addition, issues of credibility should not be entertained by the panel. The primary purpose of the medical malpractice panel system is the settlement of cases during and after panel. To this extent the panel should provide the proper atmosphere for the settlement negotiations and the composition of the panel should be restructured to facilitate the accomplishment of this goal. With respect to the dollar value of settlements, the attorney member of the panel should be actively involved in negotiations with both the plaintiff and defendant and in facilitating settlement by providing a frank assessment based upon his professional opinion of the actual value of the case. Such a realistic approach would generally discourage "frivolous claims". Mr. Fuchsberg also believes the doctor panelist has an important function, but that he should serve in an advisory capacity only. He stated that certificates of unanimous panel findings should not be admissible in subsequent trials. He bases this opinion on the fact that such evidence significantly undermines the litigant's right to a trial by jury.[3] He does not believe a medical malpractice panel solidifies the position of the parties and he questions whether in fact the panel actually assists in the settlement of cases to any degree.

Mr. Fuchsberg advocates the elimination of the special preference in medical malpractice cases. He emphasized that the key to success of a panel or even a pre-trial conference is the judge who conducts the proceeding and that without an effective judge little success can be achieved. He is convinced that given the right case, postured in the proper manner, the New York State Court of Appeals will declare the present panel system unconstitutional.

E. John Ganotis, Esq.
499 South Warren Street
Syracuse, New York
Defense Bar

Mr. Ganotis believes that medical malpractice panels have been successful and stated the view that "the system works." He does not believe that a panel's decision results in a hardening of positions, nor does he believe that panel results are any more erratic than jury verdicts. He strongly opposes a return to the mediation system and suggests that in the Fourth Judicial Department a separate part be established for medical malpractice in each county. Mr. Ganotis does not oppose the special preference for medical malpractice cases.

F. Dr. Carl Goldmark, Jr.
Past President of the Medical
Society of the State of New York

Dr. Goldmark expressed the view that the mediation panel which existed in New York County prior to the enactment of Judiciary Law Section 148(a) was ineffective. The panel then consisted of a judge and an attorney only. The panel acted in an advisory capacity and its principal use was to rid the calendar of nuisance cases. The role of the physician was to brief the attorney and judge, but he did not officially serve on the panel. Dr. Goldmark stated that a physician should formally sit on the panel and that a mediation type panel is not enought to address the serious problems which exist in the field of medical malpractice. He expressed the view that physicians will cooperate with the panel and provide their services as required. He assured the Committee that he personally has never experienced any difficulty in procuring physician panelists, but stated that some doctors have been reluctant to serve on panels because of the apprehension of being subpoenaed as witnesses in subsequent trials. He stated that medical malpractice panels are effective and should be continued with certain improvements. For example, he expressed his approval of binding arbitration and recommended it as part of the panel process. He reiterated that in his view a judge and attorney could not properly determine issues of medical liability without a physician panelist.

G. Lawrence Kanterman, Esq.
Gordon & Silber, Esqs.
60 East 42nd Street
New York, New York
Defense Bar

Mr. Kanterman expressed the view that the medical malpractice panel system works well and in his judgment it should be continued. He described the operation of the panel in Queens County and emphasized that each hearing is preceded and followed by vigorous settlement conferences. Mr. Kanterman stated that the panel is an effective tool for use in the settlement of cases. He does not believe that a unanimous panel decision results in a "hardening of positions." He expressed the view that insurance companies approve of the panel procedure because it provides the first objective opinion concerning the merits of the case. Mr. Kanterman expressed the view that a capable judge sitting as panel justice can insure success. He stated his objection to the existence of the special preference for medical malpractice cases.

H. Charles Kramer, Esq.
Kramer, Dillof & Tessel, Esqs.
233 Broadway
New York, New York
Plaintiff Bar

Mr. Kramer stated that medical malpractice panels should be resumed as they existed in New York County prior to the implementation of Judiciary Law Section 148(a), to wit: they should be optional. He believes that the "mandatory combat" which is called for under the existing statute is counterproductive.

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[3] This question has not yet been decided by the New York State Court of Appeals. See *Comiskey v. Arlen*, 55 AD 2d 304, 390 NYS 2d 122, affd 43 NY 2d 696, 401 NYS 2d 200 (1977).

If the panel is to be maintained, either as a mediation panel or as presently constituted, he is of the view that doctor members of the panel should be selected from adjoining counties and not from the county wherein the cause of action originated. Mr. Kramer recommended the procedures for pre and post-panel settlement discussions be formalized by statute. In addition, he stressed the importance of amending the statute to provide that both sides can agree to waiver of the panel and that the justice presiding at the panel may not under any circumstances overrule such a waiver.

I. Herbert G. Lindenbaum, Esq.
Bower & Gardner, Esqs.
415 Madison Aveaue
New York, New York
Defense Bar

At the outset Mr. Lindenbaum suggested that if the panel is to be maintained as part of the medical malpractice litigation process, the attorney member of the panel should be eliminated and future panels should be aggressive in recommending settlement amounts. He stressed the importance of maintaining a physician on the panel and he supports the adjoining county proposal espoused by Mr. Kramer. Mr. Lindenbaum is an advocate of continuing special preferences for medical malpractice cases. He stated further that the principal purpose of the panel, to reduce the proportions of jury verdicts, has failed. He generally favors the continuation of the panel with the foregoing revisions.

J. Philip Magner, Esq.
Garvey, Magner, Sullivan
& Love, Esqs.
1725 Statler Building
Buffalo, New York
Plaintiff Bar

Mr. Magner recited his understanding of the original objectives set forth in the legislation which created mandatory medical malpractice panels and enumerated his objections to the system. His overall impression is that medical malpractice panels have been ineffective and should be abolished. With respect to the goal of eliminating non-meritorious claims, he believes the panel has failed. With respect to the procurement of settlements before trial, he stated that in the Fourth Judicial Department medical malpractice panels do not generally produce settlements. He also believes the panels generate more problems than they actually resolve and add six months to a year to the time it ordinarily takes to try a case.

Mr. Magner stated that panels are improperly involved with questions of fact. He pointed to serious evidentiary questions which are routinely determined at panel which should be left for a jury to decide. If the panels are to be maintained Mr. Magner suggests several improvements. He is opposed to the imposition of sanctions on unsuccessful litigants who proceed in the face of adverse panel findings since, in his view, such a policy diminishes public access to the courts.

If the panels are to be continued Mr. Magner believes uniform operational procedures should be established and there should be no variation in practice from district to district. He stated that a capable pre-trial judge with the assistance of a doctor can be more effective than a medical malpractice panel in disposing of cases.

K. James S. McAskill, Esq.
Damon, Moore, Sawyer & Moot, Esqs.
1800 Liberty Bank Building
Buffalo, New York
Defense Bar

Mr. McAskill set forth his understanding of the legislative objectives which preceded the passage of Section 148(a) of the Judiciary Law and expressed the view that these objectives have not been accomplished. He is opposed to the medical malpractice panel system as presently constituted.

Mr. McAskill stated that in the Fourth Judicial Department settlement is never discussed at the panel since rules prohibiting any settlement negotiations during the panel proceeding would prevent this. He believes the Committee should examine the panel with a view toward eliminating it and emphasized the value of a good pre-trial conference as an alternative. Under existing Fourth Department procedures no pre-panel or post-panel conferences are conducted.

Mr. McAskill expressed the opinion that medical malpractice cases should not receive a special preference.

L. John E. Morris, Esq.
Morris, Duffy, Ivone & Jensen, Esqs.
233 Broadway
New York, New York
Defense Bar

Mr. Morris began his presentation by stating that he had asked twenty-five lawyers in his firm who engage in medical malpractice litigation whether or not in their view medical malpractice panels are effective. The consensus of opinion was in the negative. He stated the belief that medical malpractice cases should not be granted a special preference. He advocates improving the panel by imposing sanctions of some type on attorneys who receive adverse panel findings and proceed unsuccessfully to trial.

Mr. Morris stated further that the actual value of a case should be discussed at panel and that settlement should be actively pursued. He also said that where settlement negotiations take place and where reasonable offers are not considered, sanctions should be imposed against the resistant party. He believes that in order to more accurately gather and analyze statistics on the medical malpractice panel program, a one year moratorium on panels should be declared and settlement rates without panels should be carefully documented. In this manner he expects the Committee will be better able to assess the impact of the panel on settlements.

M. Anthony L. Schiavetti, Esq.
1633 Broadway
New York, New York
Defense Bar

Mr. Schiavetti represents the Employers Insurance Company of Warsau, which until recently was the principal malpractice insurer of physicians. He stated categorically that he opposes medical malpractice panels and expressed the view that the panel provides no real forum for the settlement of claims. He stated, however, that the medical malpractice panels have forced plaintiffs' attorneys to be prepared for trial. Mr. Schiavetti is against the admission of panel findings into evidence at subsequent trials. He conceded, however, that the panel, if properly structured and utilized, can be an effective tool for the settlement of cases.

N. Harold Shapero, Esq.
Martin, Clearwater & Bell, Esqs.
200 East 42nd Street
New York, New York
Defense Bar

Mr. Shapero stated that the mediation panel which formerly existed in New York County was not an effective means by which to dispose of medical malpractice cases before trial. He believes the existing mandatory panel is successful and should be continued with certain improvements. Mr. Shapero stated that the success or failure of a particular malpractice panel will depend upon the judge and that an effective judge can make the panel work. His view of the basic problem with the panel is that it is considered only as a pre-trial disposition mechanism. He stated that more emphasis should be placed on dispensing justice. Mr. Shapero opined that medical malpractice panel decisions have an important and direct bearing on the final disposition of a case and that in fact the medical malpractice panels have hastened settlements.

Mr. Shapero believes the most significant problem facing medical malpractice litigation in this State is that attorneys bring less than *bona fide* claims to trial. He suggested that before filing an action in court an attorney should be required to certify that he has received an expert opinion as to the merits of his case. He further suggested that sanctions be imposed as part of the panel process on litigants who proceed to trial in the face of an adverse panel finding and who are not ultimately successful.

Mr. Shapero recommended that the panel judges be carefully selected. He or she should be a judge who is well informed on medical malpractice matters, committed to making the panel work and capable of dealing with attorneys and litigants in a manner which will produce speedy dispositions and promote justice.

VI. Conclusions.

The Judiciary's Ad Hoc Committee on the operation of medical malpractice panels in New York State has compiled over two hundred pages of information and statistics pertaining to the existing panel system. We have examined data from judicial districts relating to the performance of the panels in connection with settlements reached before trial and have conducted an analysis of the cost of maintaining medical malpractice panels in relation to the percentage of cases represented by this category. Statewide, medical malpractice actions constituted approximately 2.5% of the total civil calendar in the first nine months of 1979. The Committee has met on numerous occasions and has conducted a series of hearings with prominent members of the trial bar of this state who specialize in medical malpractice litigation, officials of the Medical Society of the State of New York and with representatives of the Professional Medical Liability Insurance and Defense Board of the Medical Society of the State of New York. In excess of five hundred pages of transcripts have emanated from the recent hearings which were held on September 25th and 26th in Saratoga, New York, and on October 30th and 31st in New York City.

As a Committee, we have analyzed existing statutes and rules as well as considerable literature on the subject of medical malpractice panels. Voluminous correspondence from prominent physicians and attorneys concerning their individual perspectives on the issues has also been reviewed. Having completed this extensive analytical task, it is now the duty of the Committee to set forth its recommendations to the Chief Administrative Judge with respect to the future of medical malpractice litigation in the New York State Court System.

Evaluation of Medical Malpractice Panels in Relation to Legislative Objectives

Section 148(a) of the Judiciary Law, enacted in 1974, incorporated many of the concepts and objectives contained in a report issued by the Stevens Panel, the legislative committee which studied the status of medical malpractice litigation in New York State in 1973. The following section evaluates the performance of medical malpractice panels in relation to the Legislature's objectives.

i) Promote Settlements Before Trial and Reduce the Number of Cases Actually Brought to Trial

The medical malpractice panel statistics reported by each judicial district and the analysis of the Statewide data indicate that the percentage of settlements reached subsequent to panel during the three year reporting period was 68%. This statistic does not, however, clearly establish that medical malpractice panels have resulted in substantial rates of settlement before trial and a corresponding reduction in the amount of such actions brought to trial.

Statistics for the period January 1976 through June 1978 indicate that in the category of "other tort", cases were disposed of before trial at a rate of 83.5%. The pre-trial disposition rate of motor vehicle tort cases during the same period was 87.5%. Statewide statistics reported for the first nine months of 1979 indicate the pre-trial disposition rate of motor vehicle and other tort categories was in excess of 85% while medical malpractice cases settled before trial at a rate of approximately 70% (Office of Court Administration Form JC 100 Reports 1979). Moreover, while it is a fact that cases which have received unanimous panel findings over the three year reporting period were settled at a rate of 68%, it is also true that cases which received split findings or no findings were settled at an equally high rate (see Table A, page 20, of this report).

It has been noted throughout this report that no absolute correlation between findings and subsequent settlements can be demonstrated, since any number of post-panel factors might have encouraged settlements. Office of Court Administration statistics for the first nine months of 1979 indicate that filings in medical malpractice cases have increased on the average of 4% in New York City and 2% outside of the city. These statistics bear out that the number of medical malpractice actions filed have not been reduced as a result of the panel system.

The impact of these statistics is clear: an aggressive pre-trial conference conducted by the court in the ordinary course of its business will produce a greater rate of settlements than will a court encumbered by the additional layer of medical malpractice panel procedure. Moreover, as indicated earlier in this report, the annual cost of the medical malpractice panels to the Unified Court System, excluding judicial salaries, is in excess of $400,000. This sum is substantial in light of the panels' questionable performance and the small percentage of civil cases represented by the category.

ii) Reduction in the Total Dollar Value of Verdicts and Settlements in Medical Malpractice Cases

The Statewide compilation of data collected for this report indicates the dollar value of settlements which occur subsequent to panel disposition are significantly higher than those which occur as a result of a court pre-trial proceeding.

Medical malpractice panels were created by the Legislature in responses to what was categorized as a "medical malpractice crisis", i.e., verdicts and settlements in medical malpractice cases were growing at an alarming rate. It is apparent that the medical malpractice panel "solution" has not only failed to solve the problem but has exacerbated it. Plaintiffs who have received a unanimous panel recommendation have been notorious in demanding extremely high settlements and in proceeding to trial with increased determination to carry the case to verdict or costly settlement. Concomitantly, where defendants have received a unanimous finding of no liability, they have rarely been willing to discuss settlement.

It can be stated, therefore, that the legislative objective of reducing the cost of verdicts and settlements has not been realized during the three year period covered by this report.

iii) Provide a Structured Forum for Settlement Negotiations

Another original objective of Section 148(a) of the Judiciary Law was to promote settlements at panel. It was intended that the give and take characteristic of pre-trial negotiations would occur during the panel hearing and that "on the spot" settlements would be produced. The statistics reported for 1976 - 1978 reveal that this objective was not realized. Settlements at panel are rare and resulted in only a small percentage (4.3%) of cases which were reviewed by the panel. Judges and panel administrators have reported that litigants routinely await the official panel recommendation before considering settlement.

Generally, the panel does provide a semi-formal setting for a discussion of the merits of the action and serves to sharpen the issues and apprise the parties as to the strengths and weaknesses of their respective cases. However, as pointed out at the Committee's recent hearings, not every judicial district utilizes the panel as a settlement forum. For example, in the Eighth Judicial District settlement discussions are not permitted as part of the panel process.

In view of the foregoing, it can be concluded that the legislative objective of providing a structured forum for settlement negotiations has not been achieved by the existing panel system. The forum has actually diluted the effectiveness of the court's traditional pre-trial conferences, due to the fact that litigants have rarely been willing to conduct earnest settlement negotiations in anticipation of the panel hearing and its potential beneficial effect on their case.

VII. Recommendations

This Committee recommends the abolition of the medical malpractice panels as provided for in Judiciary Law Section 148(a) and proposes legislation which will abolish the existing panel system and vest in the Chief Administrator of the Courts the authority to promulgate rules for an alternative dispute resolution system in medical malpractice actions.

We have heard testimony that medical malpractice panels are counterproductive, to wit: they strengthen the resolve of the victor to proceed to trial, save only instances where the most favorable settlement can be reached. Moreover, where cases are disposed of before trial, such post-panel settlements have been more costly than settlements generated by a traditional pre-trial proceeding. Notwithstanding the fact that certain attorneys and physicians have testified to their satisfaction with the present panel system, this Committee has concluded that the cost in time and money imposed by the panel has exceeded its benefit to the Judiciary, the Bar, the medical profession and to society in general.

The medical malpractice panel system which has existed in New York State since 1975 has not solved the "medical malpractice crisis" which lead to its creation.

Throughout the course of the study, this Committee has identified a host of constitutional, procedural, practical and fiscal infirmities which have become characteristic of the panel system—not the least of which are significant Seventh Amendment considerations.

The fairness of the panel hearing process is open to question. One cloud over its existence is the uncertainty of its own constitutionality which has not yet been adjudicated. The equity of an ultimate unanimous recommendation of the panel is compromised when one considers that a written report containing an expert's opinion on the alleged medical malpractice or lack of it is not often exchanged between counsel. Even when exchanged there is no opportunity to test by cross-examination the opinion which in turn forms the basis of the recommendation itself. Indeed, the history or other facts upon which the expert's conclusion is based may not even be competent evidence in the record of the trial. Furthermore, the expert who rendered the written opinion may, but does not always, appear as a witness before the jury.

In view of the foregoing, this Committee has adopted as its principal recommendation that the existing provisions of Judiciary Law Section 148(a) establishing mandatory medical malpractice panels be amended to provide for the elimination of the mandatory panel and the introduction of an optional mediation panel.

Under the optional mediation panel system the justice presiding at the panel would conduct a vigorous pre-trial conference and make a strong effort toward the settlement of the case. In the event this effort is not successful, the parties could volunteer for participation in the mediation panel. In cases where the parties do not exercise this option the case would be placed on the general calendar.

Through the reinstatement of the mediation panel, problems relating to the constitutionality of the existing provisions of Judiciary Law Section 148(a), as well as other difficulties experienced as part of the panel process, would be eliminated. Moreover, the excessive costs of maintaining the present system would be reduced and it is anticipated the cost in dollars of settling medical malpractice cases would also decrease.

In conclusion, there is one legislative mandate which should be repealed as quickly as possible and that is Section 3403 (subd [a], par [5]) of the Civil Practice Law and Rules, which gives special preference to medical malpractice cases. The special preference granted to medical malpractice cases is fundamentally unfair and contributes significantly to calendar delay. There is no valid reason why a litigant alleging medical malpractice should be preferred over one complaining of another tort. Judges who administer trial calendars sense the inequity of the present law and realize that if the statute is to be followed strictly then plaintiffs who have been awaiting the normal ascent of their cases on the trial calendar will be forced to wait an inordinate length of time while medical malpractice cases are tried first.

The Committee recommends that Section 3403 (subd [a], par [5]) of the Civil Practice Law and Rules be repealed at once.

VIII. Alternative Courses of Action Considered But Not Adopted by the Committee

The foregoing section sets forth this Committee's principal recommendations with respect to the future of medical malpractice adjudication in New York State. However, several additional alternatives of significant merit were considered by the Committee but not adopted and are set forth in this section.

A. Retention of the Existing Panel System with Certain Amendments

It has been suggested during the course of the Committee's hearings that the panel should be maintained and certain provisions be established for its improvement. For example, the Committee has considered suggestions that the imposition of sanctions in the form of court costs and attorneys' fees on litigants who proceed to trial after and adverse panel finding and are unsuccessful would be efficient in producing settlements. It has also been proposed that uniform procedures for the operation of medical malpractice panels be established throughout the State. Several attorneys have urged the introduction of mandatory pre- and post-panel settlement negotiations as part of the existing statute and others have advocated the elimination of the physician from the panel as a voting member.

B. Establishment of an Arbitration System to Replace or Supplement Medical Malpractice Panels in New York State

The Committee has considered recommending the introduction of some form of arbitration as an alternative to the medical malpractice panel system and as a means to dispose of medical malpractice claims before trial.

The concept of submitting medical malpractice claims to arbitration is a comparatively new one. Recently there has been implemented in New York State a system of compulsory arbitration for civil actions where the *ad damnum* clause is $6,000 or less (22 NYCRR Part 28). In addition, in October 1979, the Suffolk County Bar Association in conjunction with the Suffolk County Medical Society adopted the "Joint Medical Legal Program for Binding Arbitration of Medical Malpractice Cases". Both compulsory arbitration and binding arbitration have been considered by the Committee. The following is an analysis of the applicability of each system to the medical malpractice field.

i) Binding Arbitration

Binding arbitration has been suggested as an alternative or addition to the existing medical malpractice panel system in New York State. Binding arbitration is the referral of a dispute by the voluntary agreement of the parties to one or more impartial arbitrator for a final and binding decision. An award in arbitration is made on the basis of evidence and argument presented by such parties who agree in advance to accept the decision of the arbitrator as final and binding.

The concept of arbitration has been successfully applied to the management of controversies related to medical malpractice. California has designed and implemented a program which has been successful in medical malpractice case disposition. The basic goals of medical malpractice arbitration are:

a) To speed the handling of claims so that they can be disposed of in months rather than years;

b) To reduce substantially the time a physician might spend in litigation;

c) To save the time of physicians, witnesses and lawyers;

d) To insure a degree of sophistication in the decision making process;

e) To minimize unnecessary appeals because of the recognized finality of an arbitration award;

f) To limit the number of costly verdicts.

Once the patient accepts the arbitration option, then, according to the rules of the American Arbitration Association, either party may compel arbitration concerning malpractice or fees; parties may intervene or be joined in court supervised discovery; lawsuits are stayed and a hearing is required within ten days. The arbitration panel decides all questions of fault and degree and an award is made according to a schedule of comparative negligence.

The concept of binding arbitration has several inherent problems.

First, where multiple specialties are at issue and where there exist multiple parties, some of whom have consented to arbitration and some who have not, difficulty exists in bringing the case to a resolution. Generally, arbitration has been used in commercial transactions where parties voluntarily agree to submit disputes to arbitrators and in the field of labor relations where employers and unions have agreed to arbitrate. Arbitration agreements are generally favored as a matter of public policy as tools for settling commercial disputes, since it is less expensive and less time consuming than a trial. However, as noted in a recent New York Law Journal article ("Tort Trends, Arbitration of Medical Malpractice Claims", Harry H. Lipsig, New York Law Journal, Thursday, January 24, 1980, p.1, col.1), the courts have refused to enforce agreements to arbitrate in certain cases where they have deemed the initial consent to arbitrate agreement as the product of an adhesive contract. It is interesting to note that the author referred to the fact that the establishment of the medical malpractice panels pursuant to Judiciary Law Section 148(a) is viewed by members of the legal and medical communities as a preview for the future establishment of arbitration panels and the enforcement of arbitration agreements in medical malpractice claims.

Certain difficulties in connection with binding arbitration have been examined by the courts. For example, in *O'Keefe v South Shore International Medical Association,* (NYLJ, November 26, 1979, p.12, col.5 [Supreme Court, Nassau County]) the court rejected an agreement to arbitrate a medical malpractice claim by pointing out that the practical problems posed by arbitration, such as cases involving multiple defendants where one defendant physician had signed an agreement and another had not, created an intolerable situation whereby two separate proceedings would ensue, one in arbitration and the other in court. The court in *O'Keefe* also indicated that the arbitration of medical malpractice disputes presents significant disclosure problems. For example, in a court proceeding the CPLR and Rules of the Appellate Division govern the scope of disclosure, whereas in arbitration the scope and extent of disclosure are an exercise of the arbitrator's discretion.

The most severe problem posed by the binding arbitration system is the unequal bargaining power found to be present in arbitration agreements between plaintiff-patients and defendant-doctors. In *Miner v Walden* (NYLJ, December 4, 1979, p.1, col.4 [Supreme Court, Queens County]), a case involving allegations of medical malpractice, the court voided a binding arbitration agreement on the grounds that the classic elements of unconscionability were present. In California, where binding arbitration has been utilized in the medical field for many years, the courts have found strong policies favoring arbitration of medical malpractice claims. The California courts have balanced an adhesive contract problem against the general public policy in favor of the arbitration of medical malpractice claims and have ruled in favor of continuing the arbitration panel.

Another problem related to binding arbitration is the enforceability of arbitration agreements where the agreement is signed by the parent of a minor.

ii) Compulsory Arbitration of Medical Malpractice Claims

The Committee has also considered the replacement of the existing medical malpractice panels with a compulsory arbitration system for the pre-trial adjudication of medical malpractice claims. This system could be patterned after Part 28 of the Rules of the Chief Judge of the Court of Appeals (22 NYCRR Part 28) in relation to the arbitration of civil actions.

Under such a system the constitutional infirmities identified with binding arbitration would seem to be essentially eliminated.

Outline of Proposed Procedures

Under a compulsory arbitration system a medical malpractice action would commence in the usual manner in a court with proper jurisdiction. Once the Note of Issue has been received by the court the case would be automatically transferred to the district's medical malpractice arbitration panel for scheduling within thirty days. The medical malpractice arbitration panel would be composed of a Justice of the Supreme Court, a physician and an attorney, each with an equal vote. A Supreme Court Justice would be designated in each judicial district as the Chairman of the medical malpractice arbitration panel and would prepare a list of doctors and attorneys. The names of the panelists would be approved in the first instance by either the Chief Administrator of the Courts or the justice presiding at the panel. Depending upon the speciality involved in the case, the justice presiding and his clerk would select panel members at random and the same rules with respect to the elimination of panel members for conflicts of interest should be applied as presently exist under the Section 148(a) panel structure. All actions subject to medical malpractice arbitration would be placed on a separate calendar known as a medical malpractice arbitration calendar in the order of the filing of the Note of Issue, Notice of Trial or Stipulation of Submission. The award of the arbitration panel would be signed by the entire panel or at least a majority. The panel justice would then file the report of the award with the court of origin and mail or deliver copies thereof to the parties or their counsel. The clerk of the court involved would record the disposition by panel. Under this arrangement all medical malpractice cases as of a day certain would be submitted to arbitration. During the arbitration proceeding all of the rules of a court of law should apply. Specific provisions with respect to the cost of obtaining witnesses and other medical reports should be set forth. The panel should conduct a hearing with due regard to laws and established rules of evidence which should be liberally construed to promote justice. Medical proofs would be established by submitting reports of attending or examining physicians upon stipulation of the parties. The panel should have the general powers of the court, including but not limited to:

(a) subpoenaing witnesses to appear;

(b) subpoenaing books, papers, documents and other items of evidence;

(c) administering oaths or affirmations;

(d) determining the admissibility of evidence and the form in which it is to be offered.

Where the party is unsuccessful at the arbitration panel and demands a trial *de novo,* none of the panelists including the doctor should be subject to subpoena in subsequent proceedings. The award secured by the panel or a majority should not be admissible into evidence at a trial *de novo.* Where the litigant exercises his right to trial *de novo,* he must do so within twenty days of hearing the decision of the panel. Where no such request is made, judgment should be entered on the basis of the arbitration award by the clerk of the court where the action commenced.

With respect to the trial *de novo,* demands may be made by any party not in default for a trial *de novo* in the court where the action was commenced. It should be clearly established by vote that the unsuccessful litigant who demands trial *de novo* should be assessed with the full or partial costs of the medical malpractice arbitration panel and said costs should be paid into the court with the request for trial *de novo.* The arbitrator should not be called as a witness nor should the report or award of the arbitrator be entered into evidence at the trial *de novo.* Where judgment upon trial *de novo* is not more favorable than the arbitration award, the amount of damages awarded or the type of relief claimed, the defendant shall not recover interest or costs from the time of award, but shall pay costs to the other parties.

IX. Acknowledgments

This report to Chief Administrative Judge Herbert B. Evans could not in good conscience be concluded without public acknowledgment of the Committee's gratitude and appreciation to all those who donated their expertise, efforts and time to assist us in our search for a better way in handling a difficult problem. The New York Trial Bar, the Medical Society of the State of New York through its officers and staff, many of our judges who are experienced in medical malpractice cases, as well as some of our non-judicial personnel—all have made a signal contribution to the cause of justice.

The Committee was attended by Francis Zarro, who served as its Secretary with great distinction.

Respectfully submitted,

Hon. Joseph F. Gagliardi,
Chairman